

*State of New York
Supreme Court, Appellate Division
Third Judicial Department*

Decided and Entered: March 12, 2020

528440

In the Matter of PHILLIP
BATTEASE,
Petitioner,

v

MEMORANDUM AND JUDGMENT

NEW YORK STATE DEPARTMENT OF
CORRECTIONS AND COMMUNITY
SUPERVISION,
Respondent.

Calendar Date: February 7, 2020

Before: Garry, P.J., Lynch, Devine, Aarons and Reynolds
Fitzgerald, JJ.

Phillip Battease, Elmira, petitioner pro se.

Letitia James, Attorney General, Albany (Marcus J.
Mastracco of counsel), for respondent.

Proceeding pursuant to CPLR article 78 (transferred to this Court by order of the Supreme Court, entered in Albany County) to review a determination of the Commissioner of Corrections and Community Supervision finding petitioner guilty of violating certain prison disciplinary rules.

Petitioner commenced this CPLR article 78 proceeding to challenge a tier III disciplinary determination finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determination has been administratively reversed, all references thereto have

been expunged from petitioner's institutional record and the mandatory \$5 surcharge has been refunded to petitioner's inmate account. To the extent that petitioner seeks reimbursement for wages lost from his assigned program, his request is denied (see Matter of Maye v Venettozzi, 158 AD3d 879, 879 [2018]). Given that petitioner otherwise has received all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Jackson v Henley, 175 AD3d 1686, 1687 [2019]; Matter of Silva v New York State Dept. of Corr. & Community Supervision, 172 AD3d 1862, 1862-1863 [2019]). As the record reflects that petitioner paid a reduced filing fee and other costs totaling \$21, and he has requested reimbursement thereof, we grant petitioner's request for that amount (see Matter of Cumberland v Venettozzi, 178 AD3d 1225, 1225 [2019]; Matter of Kielly v New York State Dept. of Corr. & Community Supervision, 177 AD3d 1051, 1052 [2019]).

Garry, P.J., Lynch, Devine, Aarons and Reynolds
Fitzgerald, J.J., concur.

ADJUDGED that the petition is dismissed, as moot, without costs, but with disbursements in the amount of \$21.

ENTER:



Robert D. Mayberger
Clerk of the Court