

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

Decided and Entered: January 23, 2020

529907

In the Matter of MARCUS
TELESFORD,
Petitioner,

v

MEMORANDUM AND JUDGMENT

ANTHONY J. ANNUCCI, as Acting
Commissioner of Corrections
and Community Supervision,
Respondent.

Calendar Date: January 3, 2020

Before: Egan Jr., J.P., Mulvey, Devine, Pritzker and Reynolds
Fitzgerald, JJ.

Marcus Telesford, Pine City, 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 respondent finding petitioner guilty of violating a prison disciplinary rule.

Petitioner commenced this CPLR article 78 proceeding challenging a tier III disciplinary determination that found him guilty of violating a prison disciplinary rule. The Attorney General has advised this Court that the determination has been administratively reversed and all references thereto have been expunged from petitioner's institutional record. As the letter

indicates that petitioner has yet to be refunded the mandatory \$5 surcharge (see 7 NYCRR 253.7 [b]), he should be permitted to recoup that expense if he has not already done so (see Matter of Palczewski v Annucci, 149 AD3d 1450, 1450 [2017]; Matter of Oppenheimer v Griffin, 123 AD3d 1214, 1214 [2014]). Inasmuch as petitioner has been granted all the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Chavez v Annucci, 168 AD3d 1332, 1333 [2019]; Matter of Duchnowski v Annucci, 168 AD3d 1301, 1301 [2019]).

Egan Jr., J.P., Mulvey, Devine, Pritzker and Reynolds
Fitzgerald, JJ., concur.

ADJUDGED that the petition is dismissed, as moot, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court