

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

Decided and Entered: July 30, 2020

530901

In the Matter of LADALE
KENNEDY,
Petitioner,

v

MEMORANDUM AND JUDGMENT

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

Calendar Date: June 26, 2020

Before: Lynch, J.P., Clark, Mulvey, Devine and Aarons, JJ.

Ladale Kennedy, Elmira, petitioner pro se.

Letitia James, Attorney General, Albany (Martin A. Hotvet
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 certain prison disciplinary
rules.

Petitioner commenced this CPLR article 78 proceeding
challenging a tier III disciplinary determination that found him
guilty of violating several prison disciplinary rules. 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. The

Attorney General further advises that petitioner was never charged and did not pay the \$5 surcharge, and that the recommended loss of good time incurred by petitioner as a result of the disciplinary determination has been restored. Inasmuch as petitioner has been granted all the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Albanese v Annucci, 181 AD3d 1085, 1085 [2020]; Matter of Brown v Annucci, 181 AD3d 1087, 1087 [2020]). As the record reflects that petitioner was ordered to pay a reduced filing fee of \$50 and has requested reimbursement thereof, we grant petitioner's request for that amount (see Matter of Kielly v New York State Dept. of Corr. & Community Supervision, 177 AD3d 1051, 1052 [2019]).

Lynch, J.P., Clark, Mulvey, Devine and Aarons, JJ.,
concur.

ADJUDGED that the petition is dismissed, as moot, without costs, but with disbursements in the amount of \$50.

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