

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

Decided and Entered: April 14, 2022

533410

In the Matter of JASON BAXTER,
Appellant,

v

MEMORANDUM AND ORDER

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

Calendar Date: March 18, 2022

Before: Garry, P.J., Clark, Colangelo, Ceresia and Fisher, JJ.

Jason Baxter, Collins, appellant pro se.

Letitia James, Attorney General, Albany (Kate H. Nepveu of
counsel), for respondent.

Appeal from a judgment of the Supreme Court (Ferreira, J.), entered June 1, 2021 in Albany County, which dismissed petitioner's application, in a proceeding pursuant to CPLR article 78, to review a determination of respondent finding petitioner guilty of violating certain prison disciplinary rules.

Petitioner commenced this CPLR article 78 proceeding raising various procedural challenges to a tier III disciplinary determination finding him guilty of violating certain prison disciplinary rules. Following joinder of issue, Supreme Court dismissed the petition, and this appeal ensued. 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 was not deducted from petitioner's institutional account. Given that petitioner has received all of the relief to which he is entitled, the appeal must be dismissed as moot (see Matter of Hogan v Annucci, 162 AD3d 1418, 1418 [2018], appeal dismissed 32 NY3d 1001 [2018]; cf. Matter of Houston v Annucci, 200 AD3d 1387, 1387 [2021]; Matter of Fraser v Venettozzi, 197 AD3d 1475, 1476 [2021]). As the record reflects that petitioner paid a reduced filing fee of \$15 and he has requested reimbursement thereof, we grant petitioner's request for that amount.

Garry, P.J., Clark, Colangelo, Ceresia and Fisher, JJ., concur.

ORDERED that the appeal is dismissed, as moot, without costs, but with disbursements in the amount of \$15.

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