

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

Decided and Entered: April 14, 2022

534140

In the Matter of MICHAEL
STUBBS,

Petitioner,

v

MEMORANDUM AND JUDGMENT

DONALD VENETTOZZI, as Acting
Director of Special Housing
and Inmate Disciplinary
Programs,

Respondent.

Calendar Date: March 18, 2022

Before: Egan Jr., J.P., Aarons, Reynolds Fitzgerald, Ceresia
and Fisher, JJ.

Michael Stubbs, Buffalo, petitioner pro se.

Letitia James, Attorney General, Albany (Kate H. Nepveu 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 a prison disciplinary rule.

Petitioner commenced this CPLR article 78 proceeding
seeking to challenge a tier III disciplinary determination. 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 will be refunded to petitioner's institutional account.¹ Although not referenced by the Attorney General, the penalty imposed included a recommended loss of good time, which should also be restored (see Matter of Jefferies v New York State Department of Corr. & Community Supervision, 190 AD3d 1250, 1250 [2021]; Matter of Briggs v Venettozzi, 190 AD3d 1186, 1186 [2021]). Given that petitioner has received all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Santana v Annucci, 190 AD3d 1182, 1183 [2021]; Matter of Snyder v Annucci, 188 AD3d 1531, 1532 [2020]). 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 (see Matter of Houston v Annucci, 200 AD3d 1387, 1387 [2021]).

Egan Jr., J.P., Aarons, Reynolds Fitzgerald, Ceresia and Fisher, JJ., concur.

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

ENTER:

A handwritten signature in black ink, reading "Robert D. Mayberger". The signature is fluid and cursive, with the first name "Robert" and last name "Mayberger" clearly legible.

Robert D. Mayberger
Clerk of the Court

¹ In the event that the Commissioner of Corrections and Community Supervision has yet to refund the mandatory \$5 surcharge, he is directed to take this corrective action (see Matter of Santana v Annucci, 190 AD3d 1182, 1183 n [2021]).