

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

Decided and Entered: August 1, 2024

CV-24-0028

In the Matter of JEFFREY JOSEPH,
Petitioner,

v

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

MEMORANDUM AND JUDGMENT

Calendar Date: June 14, 2024

Before: Garry, P.J., Egan Jr., Aarons, Reynolds Fitzgerald and McShan, JJ.

Jeffrey Joseph, Alden, 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 respondent finding petitioner guilty of violating certain prison disciplinary rules.

Petitioner commenced this CPLR article 78 proceeding challenging 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 and all references thereto have been expunged from petitioner's institutional record.¹ As petitioner has received all the relief to which he is entitled, the

¹ The Attorney General indicates that the mandatory \$5 surcharge was not taken out of petitioner's account.

appeal must be dismissed as moot (*see Matter of Ross v Rodriguez*, 225 AD3d 1051, 1052 [3d Dept 2024]; *Matter of Windley v Rodriguez*, 224 AD3d 983, 984 [3d Dept 2024]). Because the record reflects that petitioner paid a filing fee of \$305 and he has requested a refund thereof, we grant his request for that amount (*see Matter of Blanchard v Venettozzi*, 194 AD3d 1295, 1295 [3d Dept 2021]).

Garry, P.J., Egan Jr., Aarons, Reynolds Fitzgerald and McShan, JJ., concur.

ADJUDGED that the appeal is dismissed, as moot, without costs, but with disbursements in the amount of \$305.

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