

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

Decided and Entered: May 21, 2026

CV-25-1271

In the Matter of GABRIEL RICH,
Petitioner,

v

MEMORANDUM AND JUDGMENT

DANIEL F. MARTUSCELLO III, as
Commissioner of Corrections
and Community Supervision,
Respondent.

Calendar Date: April 17, 2026

Before: Garry, P.J., Pritzker, Fisher, Mackey and Corcoran, JJ.

Gabriel Rich, Rome, 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 to challenge a tier III disciplinary hearing finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determination at issue has been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the mandatory \$5 surcharge has been refunded to petitioner's account. Inasmuch as petitioner has received all the relief to which he is entitled, the matter is dismissed as moot (*see Matter of Evans v Rodriguez*, 244 AD3d 1366, 1366 [3d

Dept 2025]; *Matter of McKnight v Kopp*, 241 AD3d 1668, 1668 [3d Dept 2025]). As the record reflects that petitioner paid a reduced filing fee of \$15, and he has requested reimbursement thereof, we grant his request and direct respondent to reimburse him for that amount (*see Matter of Evans v Rodriguez*, 244 AD3d at 1366-1367; *Matter of Bruno v Martuscello*, 237 AD3d 1403, 1403 [3d Dept 2025]).

Garry, P.J., Pritzker, Fisher, Mackey and Corcoran, 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 that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court