

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

Matter of Williams v. Keyser

2018 NY Slip Op 08602 (N.Y. Ct. App. 2018) · No. 526535 · Decided December 13, 2018

SUMMARY

The petitioner challenged a tier II prison disciplinary determination in a CPLR article 78 proceeding. Because the determination had been administratively reversed, expunged, and accompanied by a surcharge refund, the court dismissed the petition as moot, while granting reimbursement of the petitioner's \$15 filing fee.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	McCarthy, J.P.; Devine, J.; Clark, J.; Aarons, J.; Rumsey, J.
JURISDICTION	New York
DECIDED	December 13, 2018
DOCKET	526535
DISPOSITION	dismissed
PROCEDURAL POSTURE	CPLR article 78 proceeding challenging a tier II prison disciplinary determination; the proceeding was transferred to the Appellate Division by order of the Supreme Court, Sullivan County.
PRECEDENTIAL VALUE	published
PARTIES	Kenyatta Williams v. William F. Keyser, as Superintendent of Sullivan Correctional Facility

TOPICS

judicial review of agency action

agency adjudication

remedies

civil procedure

PRACTICE AREAS

New York civil procedure

prison disciplinary proceedings

administrative law

Article 78 judicial review

QUESTIONS PRESENTED

1. Whether the article 78 proceeding should be dismissed as moot after the challenged prison disciplinary determination was administratively reversed, expunged, and its surcharge refunded.
2. Whether Williams was entitled to reimbursement of the \$15 reduced filing fee.

HOLDINGS

1. The proceeding was moot because Williams had received all relief to which he was entitled after the disciplinary determination was reversed, the references were expunged, and the surcharge was refunded.
2. Williams was entitled to reimbursement of the \$15 reduced filing fee he had paid.

FACTUAL BACKGROUND

Williams was found guilty in a tier II prison disciplinary proceeding of violating certain prison disciplinary rules. Before the Appellate Division resolved his article 78 challenge, the disciplinary determination was administratively reversed, the related references were expunged from his institutional record, and the \$5 mandatory surcharge was refunded. Williams had paid a reduced filing fee of \$15 and requested reimbursement.

PROCEDURAL HISTORY

Williams commenced an article 78 proceeding challenging a determination finding him guilty of violating prison disciplinary rules. While the proceeding was pending, the Attorney General advised that the determination had been administratively reversed, all references had been expunged from Williams's institutional record, and the mandatory surcharge had been refunded. The Appellate Division dismissed the proceeding as moot but granted Williams reimbursement of his \$15 reduced filing fee.

DISPOSITION

dismissed

CASES CITED

- Matter of Anderson v. Annucci, 164 A.D.3d 1551 (N.Y. App. Div. 2018)
- Matter of Herbert v. Venettozzi, 162 A.D.3d 1454 (N.Y. App. Div. 2018)

OPINION

PER CURIAM.

Matter of Williams v Keyser (2018 NY Slip Op 08602) Matter of Williams v Keyser 2018 NY Slip Op 08602 Decided on December 13, 2018 Appellate Division, Third Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided and Entered: December 13, 2018 526535 [*1]In the Matter of KENYATTA WILLIAMS, Petitioner, vWILLIAM F. KEYSER, as Superintendent of Sullivan Correctional Facility, Respondent.

Calendar Date: October 26, 2018 Before: McCarthy, J.P., Devine, Clark, Aarons and Rumsey, JJ. Kenyatta Williams, Fallsburg, petitioner pro se. Barbara D. Underwood, Attorney General, Albany (William E. Storrs of counsel), for respondent. MEMORANDUM AND JUDGMENT Proceeding pursuant to CPLR article 78 (transferred to this Court by order of the Supreme Court, entered in Sullivan 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 II 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, all references thereto have been expunged from petitioner's institutional record and the \$5 mandatory surcharge has been refunded to petitioner's inmate account.

Accordingly, given that petitioner has received all the relief to which he is entitled, the petition must be dismissed as moot (see *Matter of Anderson v Annucci*, 164 AD3d 1551, 1551 [2018]; *Matter of Herbert v Venettozzi*, 162 AD3d 1454, 1455 [2018]).

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. McCarthy, J.P., Devine, Clark, Aarons and Rumsey, JJ., concur. ADJUDGED that the petition is dismissed, as moot, without costs, but with disbursements in the amount of \$15.