

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

Matter of Harris v. Collado

2021 NY Slip Op 03102 (N.Y. Ct. App. 2021) · No. 532174 · Decided May 13, 2021

SUMMARY

The Appellate Division, Third Department dismissed as moot a CPLR article 78 proceeding challenging a prison disciplinary determination because the determination had been administratively reversed, expunged, and the mandatory surcharge refunded. The court granted the petitioner reimbursement of \$21.40 in filing-related expenses and disbursements.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Garry, P.J.; Clark, J.; Aarons, J.; Pritzker, J.; Reynolds Fitzgerald, J.
JURISDICTION	New York
DECIDED	May 13, 2021
DOCKET	532174
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, Ulster County.
PRECEDENTIAL VALUE	Published opinion of the New York Appellate Division, Third Department
PARTIES	Andre Harris, Petitioner v. Jaifa Collado, as Superintendent of Shawangunk Correctional Facility, Respondent

TOPICS

mootness judicial review of agency action appellate procedure remedies costs

PRACTICE AREAS

administrative law prison disciplinary proceedings civil procedure appellate procedure

QUESTIONS PRESENTED

1. Whether the article 78 proceeding became moot after the challenged disciplinary determination was administratively reversed, expunged from Harris's institutional record, and the mandatory surcharge was refunded.
2. Whether Harris was entitled to reimbursement of his \$15 reduced filing fee and \$6.40 in other proceeding-related expenses.

HOLDINGS

1. The petition must be dismissed as moot because Harris received all relief to which he was entitled: administrative reversal of the determination, expungement of references from his institutional record, and refund of the mandatory surcharge.
2. Harris was entitled to disbursements of \$21.40, consisting of the reduced filing fee and other expenses associated with the proceeding.

KEY QUOTATIONS

“In view of this, and given that petitioner has received all of the relief to which he is entitled, the petition must be dismissed as moot” ([*1])

FACTUAL BACKGROUND

Harris challenged a tier II prison disciplinary determination that found him guilty of violating certain prison disciplinary rules. The determination was administratively reversed, all references to it were removed from his institutional record, and the \$5 mandatory surcharge was refunded. Harris had paid \$6.40 in other proceeding-related expenses and sought reimbursement.

PROCEDURAL HISTORY

Harris commenced an article 78 proceeding challenging a determination finding him guilty of violating prison disciplinary rules. While the proceeding was pending, the determination was administratively reversed, references were expunged from his institutional record, and a mandatory surcharge was refunded. The Appellate Division dismissed the petition as moot but awarded Harris \$21.40 in disbursements.

DISPOSITION

dismissed

CASES CITED

- Matter of Upson v. Rich, 190 A.D.3d 1182, 1182 (3d Dep't 2021)
- Matter of Dibble v. Venettozzi, 181 A.D.3d 1139, 1139 (3d Dep't 2020)

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