

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

Decided and Entered: November 7, 2019

527509

In the Matter of SARA G.
KIELLY,
Petitioner,

v

MEMORANDUM AND JUDGMENT

NEW YORK STATE DEPARTMENT OF
CORRECTIONS AND COMMUNITY
SUPERVISION,
Respondent.

Calendar Date: October 4, 2019

Before: Egan Jr., J.P., Lynch, Devine and Aarons, JJ.

Sara G. Kielly, Marcy, petitioner pro se.

Letitia James, Attorney General, Albany (Marcus J. Mastracco 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 Superintendent of Five Points Correctional Facility finding petitioner guilty of violating a prison disciplinary rule.

Petitioner commenced this CPLR article 78 proceeding challenging a tier II disciplinary determination finding her guilty of violating a prison disciplinary rule. 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 has been refunded to petitioner's inmate account. To the extent that petitioner seeks to be restored to the housing status that she enjoyed prior to the disciplinary determination, she is not entitled to such relief (see Matter of Mercado v Annucci, 172 AD3d 1844, 1845 [2019]). Given that petitioner has received all the relief to which she is entitled, the petition must be dismissed as moot (see Matter of Bailey v Annucci, 173 AD3d 1600, 1600 [2019]; Matter of Mercer v Annucci, 173 AD3d 1595, 1596 [2019]). As the record reflects that petitioner was ordered to pay a reduced filing fee of \$15 and she has requested reimbursement thereof, we grant petitioner's request for that amount (see Matter of Silva v New York State Dept. of Corr. & Community Supervision, 172 AD3d 1862, 1863 [2019]; Matter of Ford v Annucci, 172 AD3d 1815, 1816 [2019]).

Egan Jr., J.P., Lynch, Devine and Aarons, JJ., concur.

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

ENTER:



Robert D. Mayberger
Clerk of the Court