

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

Decided and Entered: September 24, 2020

530093

In the Matter of ELISHA TORRES,
Petitioner,

v

DONALD VENETTOZZI, as Acting
Director of Special Housing
and Inmate Disciplinary
Programs,
Respondent.

MEMORANDUM AND JUDGMENT

Calendar Date: September 4, 2020

Before: Egan Jr., J.P., Lynch, Clark, Mulvey and Pritzker, JJ.

Elisha Torres, Romulus, 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 Commissioner of Corrections and Community Supervision finding petitioner guilty of violating certain prison disciplinary rules.

Petitioner commenced this CPLR article 78 proceeding to challenge 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, all references thereto have been expunged from petitioner's institutional record and the \$5

mandatory surcharge has been refunded to petitioner's inmate account. Given that petitioner has received all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Perez v Venettozzi, 182 AD3d 869, 869 [2020]; Matter of Dibble v Venettozzi, 181 AD3d 1139, 1139 [2020]). Further, because the record reflects that the penalty imposed included a loss of good time, any reference thereto should also be expunged from petitioner's institutional record (see Matter of Dibble v Venettozzi, 181 AD3d at 1139). 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 such amount.

Egan Jr., J.P., Lynch, Clark, Mulvey and Pritzker, 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