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

Decided and Entered: September 24, 2020 530543

In the Matter of ROBERT J. COLVIN,

Petitioner,

v

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

Respondent.

MEMORANDUM AND JUDGMENT

Calendar Date: September 4, 2020

Before: Mulvey, J.P., Aarons, Pritzker, Reynolds Fitzgerald and

Colangelo, JJ.

Robert J. Colvin, Alden, 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 challenging 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 mandatory \$5 surcharge has been refunded to petitioner's inmate account. "Further, to the extent that he seeks such relief, petitioner is not entitled to be restored to the status he enjoyed prior to the disciplinary determination" (Matter of Herbert v Venettozzi, 162 AD3d 1454, 1455 [2018] [internal quotation marks and citation omitted]; see Matter of Hamilton v Annucci, 171 AD3d 1385, 1385 [2019]). Accordingly, as petitioner has received all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Brown v Annucci, 181 AD3d 1087, 1088 [2020]; Matter of Telesford v Annucci, 175 AD3d 1717, 1717 [2019]).

Mulvey, J.P., Aarons, Pritzker, Reynolds Fitzgerald and Colangelo, JJ., concur.

ADJUDGED that the petition is dismissed, as moot, without costs.

ENTER:

Robert D. Mayberger Clerk of the Court