

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

Decided and Entered: September 24, 2020

530855

In the Matter of DAVID LOUIE,
Petitioner,

v

MEMORANDUM AND JUDGMENT

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

Calendar Date: September 4, 2020

Before: Egan Jr., J.P., Lynch, Mulvey, Devine and Reynolds
Fitzgerald, JJ.

David Louime, Dannemora, petitioner pro se.

Letitia James, Attorney General, Albany (Martin A. Hotvet
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 various 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. The record reflects that the penalty imposed included a loss of good time and, although not referenced by the Attorney General, the loss of good time incurred by petitioner as a result of the disciplinary determination should be restored (see Matter of Black v Annucci, 179 AD3d 1371, 1372 [2020]; Matter of Cumberland v Venettozzi, 178 AD3d 1225, 1226 [2019]). To the extent that petitioner seeks to be restored to the status that he enjoyed prior to the disciplinary determination, he is not entitled to such relief (see Matter of Perez v Venettozzi, 182 AD3d 869, 869 [2020]; Matter of Black v Annucci, 179 AD3d at 1372). Inasmuch as petitioner has received all the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Perez v Venettozzi, 182 AD3d at 869; Matter of Arriaga v Panzarella, 181 AD3d 1143, 1144 [2020]).

Egan Jr., J.P., Lynch, Mulvey, Devine and Reynolds
Fitzgerald, J.J., concur.

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

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court