

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

Decided and Entered: January 21, 2021

532073

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In the Matter of WADE BRIGGS,  
Petitioner,

v

MEMORANDUM AND JUDGMENT

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

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Calendar Date: January 4, 2021

Before: Garry, P.J., Mulvey, Aarons, Reynolds Fitzgerald and  
Colangelo, JJ.

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Wade Briggs, Woodbourne, petitioner pro se.

Letitia James, Attorney General, Albany (Kate H. Nepveu of  
counsel), for respondent.

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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  
at issue has been administratively reversed and all references

thereto have been expunged from petitioner's institutional record. Given that petitioner has received all the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Louime v Venettozzi, 186 AD3d 1870, 1871 [2020]; Matter of Kennedy v Annucci, 185 AD3d 1372, 1373 [2020]). Inasmuch as the record does not reflect that the mandatory \$5 surcharge was refunded to petitioner's account (see 7 NYCRR 253.7 [b]), he should be permitted to recoup that expense (see Matter of Dibble v Venettozzi, 181 AD3d 1139, 1139 [2020]). We also note that the loss of good time incurred as part of the penalty imposed should be restored (see Matter of Dacey v Annucci, 173 AD3d 1585, 1585-1586 [2019]).

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

ADJUDGED that the petition is dismissed, as moot, without costs, but with a refund of the mandatory surcharge in the amount of \$5.

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