

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

Decided and Entered: November 3, 2022

534693

In the Matter of MANUEL NUNEZ,
Petitioner,

v

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

MEMORANDUM AND JUDGMENT

Calendar Date: October 7, 2022

Before: Egan Jr., J.P., Lynch, Reynolds Fitzgerald, Ceresia and
McShan, JJ.

Manuel Nunez, Woodbourne, 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 Acting 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 \$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 Baxter v Annucci*, 204 AD3d 1203, 1203 [3d Dept 2022]; *Matter of Fraser v Venettozzi*, 197 AD3d 1475, 1476 [3d Dept 2021]). As the record reflects that petitioner paid a reduced filing fee of \$50 and has paid and documented other expenses in connection with this proceeding in the amount of \$124.85, and he has requested reimbursement thereof, we grant petitioner's request for that amount (*see Matter of Blanchard v Venettozzi*, 194 AD3d 1295, 1295 [3d Dept 2021]).

Egan Jr., J.P., Lynch, Reynolds Fitzgerald, Ceresia and McShan, JJ., concur.

ADJUDGED that the petition is dismissed, as moot, without costs, but with disbursements in the amount of \$174.85.

ENTER:



Robert D. Mayberger
Clerk of the Court