

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

Decided and Entered: December 14, 2023

CV-22-2196

In the Matter of DOMINGO
ESPIRITU,
Petitioner,
v

MEMORANDUM AND JUDGMENT

ANTHONY J. ANNUCCI, as Acting
Commissioner of Corrections
and Community Supervision,
et al.,
Respondents.

Calendar Date: November 9, 2023

Before: Clark, J.P., Pritzker, Ceresia, McShan and Powers, JJ.

Domingo Espiritu, Napanoch, petitioner pro se.

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

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 respondent 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 subject disciplinary 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 incarcerated individual 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 Perkins v Annucci*, 216 AD3d 1388, 1388 [3d Dept 2023]; *Matter of Iverson v Annucci*, 215 AD3d 1145, 1146 [3d Dept 2023]).

Clark, J.P., Pritzker, Ceresia, McShan and Powers, JJ., 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