

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

Decided and Entered: February 1, 2024

CV-23-1029

In the Matter of KENNETH
WINDLEY,
Petitioner,
v

MEMORANDUM AND JUDGMENT

ANTHONY RODRIGUEZ, as Acting
Director of Special Housing and
Inmate Disciplinary Programs,
Respondent.

Calendar Date: January 5, 2024

Before: Aarons, J.P., Lynch, Reynolds Fitzgerald, Fisher and Mackey, JJ.

Kenneth Windley, Ray Brook, petitioner pro se.

Letitia James, Attorney General, Albany (*Kate H. Nepveu* 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 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. To the extent that petitioner seeks to be restored to the status he enjoyed prior to the disciplinary determination, he is not entitled to such relief (*see Matter of Iverson v Annucci*, 215 AD3d 1145, 1145 [3d Dept 2023]). Given that petitioner has received all of the relief to which he is entitled, the petition must be dismissed as moot (*see Matter of Valdez-Cruz v Collado*, 219 AD3d 1652, 1652 [3d Dept 2023]; *Matter of Perkins v Annucci*, 216 AD3d 1388, 1388-1389 [3d Dept 2023]).

Aarons, J.P., Lynch, Reynolds Fitzgerald, Fisher and Mackey, 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