

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

DANIEL V. DONADIO JR.
Petitioner

Index #: 85002/2023

-against-
THE NEW YORK CITY POLICE
DEPARTMENT and THE CITY OF NEW
YORK

DECISION & ORDER
(Motion #2)

Respondents

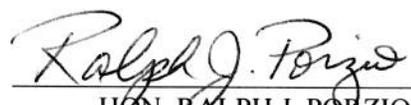
Upon the papers filed in support of the application and the papers filed in opposition thereto, and after hearing oral arguments, for the reasons set forth on the record it is hereby

ORDERED that Respondents' cross-motion to dismiss the Article 78 Petition is denied.

This Court finds that the February 2023 amendment to the New York City Department of Health and Hygiene's October 2021 vaccination order does not render this petition moot. The Respondent's position is that amended order no longer requires that the Petitioner and similarly situated people to show proof of COVID-19 vaccination in order to go to work. However, the amendment to the order does not address the question of whether or not the Respondent's denial of the Petitioner's request for a religious exemption from the vaccine mandate was done in error, nor does it address the issues of attorney's fee. For these reasons, this Court does not find that the Petition is moot. *See Agugliaro v Eric Adams, et. al.*, Index No. 156866/2022 decision dated 2/14/2023; *DeFonte v New York City Police Dept.*, Index No. 85036/2023 decision dated March 22, 2023; *Compare Kirkland v Annucci*, 150 A.D.3d 736 (2d Dep't 2017) (wherein the Second Department held that because the Petitioner had received the ultimate reward they sought in their Petition, the Supreme Court properly determined the matter was moot).

Date: June 1, 2023

ENTER



HON. RALPH J. PORZIO
J.S.C.