

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

Decided and Entered: September 13, 2012

513177

In the Matter of SHIH-SIANG
SHAWN LIAO,
Petitioner,

v

MEMORANDUM AND JUDGMENT

BRIAN FISCHER, as Commissioner
of Corrections and Community
Supervision,
Respondent.

Calendar Date: July 30, 2012

Before: Mercure, J.P., Rose, Spain, Stein and Egan Jr., JJ.

Shih-Siang Shawn Liao, Ogdensburg, petitioner pro se.

Eric T. Schneiderman, 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, among other things, review a determination of respondent which found petitioner guilty of violating certain prison disciplinary rules.

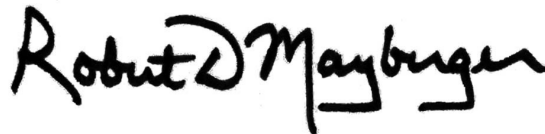
Petitioner commenced the instant CPLR article 78 proceeding challenging, among other things, a tier III disciplinary determination finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determination at issue has been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the \$5 mandatory surcharge has been refunded to petitioner's inmate account. We note that

the tier II disciplinary determination that was also a subject of this proceeding has been annulled. Petitioner is not entitled to be restored to the status he enjoyed prior to the disciplinary determinations (see Matter of Garner v Bezio, 95 AD3d 1585, 1585 [2012]; Matter of Abdul-Malik v Palin, 85 AD3d 1413 [2011]). In view of this, and given that petitioner has received all the relief to which he is entitled, the matter must be dismissed as moot (see Matter of Torres v Bezio, 92 AD3d 1053 [2012]; Matter of Calix v Brown, 92 AD3d 1001 [2012]).

Mercure, J.P., Rose, Spain, Stein and Egan Jr., 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