

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

Decided and Entered: August 2, 2012

513492

In the Matter of MELLISUN SKYES,
Petitioner,

v

MEMORANDUM AND JUDGMENT

BRIAN FISCHER, as Commissioner
of Corrections and Community
Supervision, et al.,
Respondents.

Calendar Date: June 6, 2012

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

Mellsun Sykes, Raybrook, petitioner pro se.

Eric T. Schneiderman, Attorney General, Albany (Kathleen M. Treasure 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 Commissioner of Corrections and Community Supervision which found petitioner guilty of violating certain prison disciplinary rules.

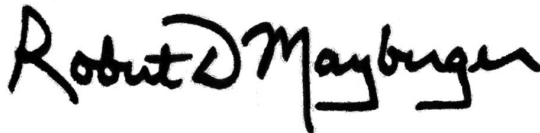
Petitioner commenced this CPLR article 78 proceeding challenging a determination finding him guilty of violating numerous prison disciplinary rules. The Attorney General has informed this Court that the determination at issue has been administratively reversed, all references thereto expunged from petitioner's institutional record and the \$5 mandatory surcharge has been refunded to his inmate account. Although petitioner requests that he be restored to the status he enjoyed prior to the tier III hearing, inmates do not have a constitutional or

statutory right to their prior housing or programming status (see Matter of Hamilton v Bezio, 93 AD3d 1049, 1050 [2012]; Matter of Applegate v Fischer, 89 AD3d 1303, 1304 [2011]). Thus, petitioner has been afforded all the relief to which he is entitled, and the petition must be dismissed as moot (see Matter of Kalwasinski v Fischer, 92 AD3d 1069, 1069-1070 [2012]).

Mercure, J.P., Spain, Stein, Garry 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