

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

Decided and Entered: September 13, 2012

513873

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In the Matter of KEITH HORACE,  
Petitioner,

v

MEMORANDUM AND JUDGMENT

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

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Calendar Date: July 30, 2012

Before: Peters, P.J., Lahtinen, Spain, Stein and McCarthy, JJ.

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Keith Horace, Gouverneur, petitioner pro se.

Eric T. Schneiderman, Attorney General, Albany (Marcus J. Mastracco of counsel), for respondent.

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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 which found petitioner guilty of violating a prison disciplinary rule.

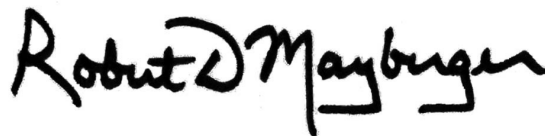
Petitioner commenced this CPLR article 78 proceeding challenging a determination finding him guilty of violating a prison disciplinary rule. The Attorney General has advised this Court that the determination has been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the \$5 mandatory surcharge has been refunded to petitioner's inmate account. In view of this and given that petitioner has received all the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Garner v Bezio, 95 AD3d 1585 [2012]; Matter of Torres v Bezio, 92

AD3d 1053 [2012])). Contrary to petitioner's claim, he is not entitled to be restored to the status he enjoyed prior to the disciplinary determination (see Matter of Abdul-Malik v Palin, 85 AD3d 1413 [2011]).

Peters, P.J., Lahtinen, Spain, Stein and McCarthy, 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