

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

Decided and Entered: March 16, 2017

522880

In the Matter of ONIEL BROWN,
Petitioner,

v

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

MEMORANDUM AND JUDGMENT

Calendar Date: January 24, 2017

Before: Egan Jr., J.P., Lynch, Rose, Clark and Mulvey, JJ.

Oniel Brown, Gowanda, petitioner pro se.

Eric T. Schneiderman, Attorney General, Albany (Marcus J. Mastracco 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 respondent finding petitioner guilty of violating certain prison disciplinary rules.

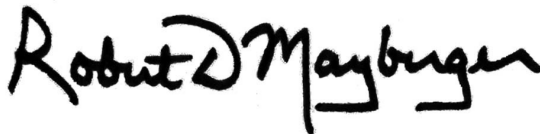
Petitioner commenced this CPLR article 78 proceeding to challenge a tier III disciplinary determination finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determination has been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the mandatory \$5 surcharge has been refunded to petitioner's inmate account. We note that the loss of good time incurred by petitioner as a result of the disciplinary determination also should be restored (see Matter of Lawrence v Annucci, 141 AD3d

1063, 1063 [2016])). In view of this, and given that petitioner has been granted all the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Kirshtein v New York State Dept. of Corr. & Community Supervision, 142 AD3d 1246, 1246 [2016])).

Egan Jr., J.P., Lynch, Rose, Clark and Mulvey, 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