

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

Decided and Entered: July 6, 2017

523187

In the Matter of ROY WORTH,
Petitioner,

v

DONALD VENETTOZZI, as Acting
Director of Special Housing
and Inmate Disciplinary
Programs,
Respondent.

MEMORANDUM AND JUDGMENT

Calendar Date: May 9, 2017

Before: Lynch, J.P., Devine, Clark, Mulvey and Aarons, JJ.

Roy Worth, Rome, 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 the Commissioner of Corrections and Community Supervision finding petitioner guilty of violating certain prison disciplinary rules.

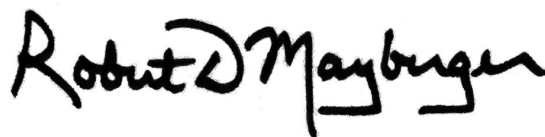
Petitioner commenced this CPLR article 78 proceeding challenging a tier III disciplinary determination finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determination at issue has been administratively reversed, all references thereto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

part of the penalty should also be restored to petitioner (see Matter of Hines v Venettozzi, 148 AD3d 1444, 1445 [2017]; Matter of Corrieri v Annucci, 137 AD3d 1407, 1408 [2016]). Otherwise, as petitioner has been granted all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Brown v Venettozzi, 148 AD3d 1446, 1446 [2017]; Matter of Garnes v Annucci, 144 AD3d 1277, 1277 [2016]). Although the petition seeks restoration of privileges, petitioner "is not entitled to be restored to the status he enjoyed prior to the disciplinary determination" (Matter of West v Annucci, 134 AD3d 1379, 1380 [2015]; see Matter of Herring v Prack, 118 AD3d 1200, 1200 [2014]).

Lynch, J.P., Devine, Clark, Mulvey and Aarons, 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