

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

Decided and Entered: November 9, 2017

524502

---

In the Matter of EARL STONE,  
Petitioner,

v

MEMORANDUM AND JUDGMENT

ANTHONY J. ANNUCCI, as Acting  
Commissioner of Corrections  
and Community Supervision,  
Respondent.

---

Calendar Date: September 19, 2017

Before: Peters, P.J., Garry, Lynch, Clark and Aarons, JJ.

---

Earl Stone, Dannemora, 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 a prison disciplinary rule.

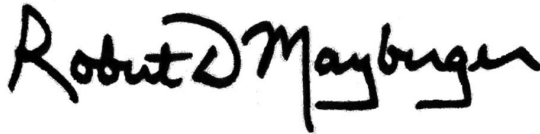
Petitioner commenced this CPLR article 78 proceeding challenging a tier III disciplinary determination finding him guilty of violating a prison disciplinary rule. The Attorney General has advised this Court that the determination has been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the mandatory \$5 surcharge has been refunded to petitioner's inmate account. We note that "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 Gega v Annucci, 149 AD3d 1439, 1439 [2017]). Accordingly, and inasmuch as petitioner has otherwise received all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Terry v Annucci, 153 AD3d 1019, 1019 [2017]; Matter of Brown v Venettozzi, 148 AD3d 1446, 1446 [2017]).

Peters, P.J., Garry, Lynch, Clark and Aarons, JJ., concur.

ADJUDGED that the petition is dismissed, as moot, without costs, but with disbursements in the amount of \$15.

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