

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

Decided and Entered: November 2, 2017

524558

In the Matter of AKEEM ULMER,
Petitioner,

v

MEMORANDUM AND JUDGMENT

ANTHONY J. ANNUCCI, as Acting
Commissioner of Corrections
and Community Supervision,
et al.,
Respondents.

Calendar Date: September 19, 2017

Before: McCarthy, J.P., Lynch, Devine, Mulvey and Pritzker, JJ.

Akeem Ulmer, Stormville, petitioner pro se.

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

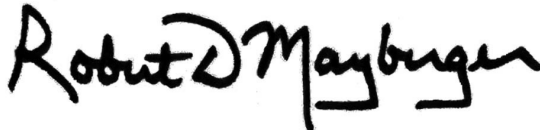
Petitioner commenced this CPLR article 78 proceeding challenging a tier III determination finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determination at issue has been administratively reversed, all references thereto have been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

the penalty should also be restored (see Matter of Worth v Venettozzi, 152 AD3d 844, 844 [2017]). Otherwise, as petitioner has received all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Serrano v Smith, 152 AD3d 854, 854 [2017]). To the extent that petitioner requests that he be restored to the status he enjoyed prior to the disciplinary determination, he is not entitled to such relief (see Matter of Smith v Prack, 131 AD3d 784, 784 [2015]).

McCarthy, J.P., Lynch, Devine, Mulvey and Pritzker, 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