

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

Decided and Entered: December 7, 2017

524748

In the Matter of ATIQ WESTON,
Petitioner,

v

MEMORANDUM AND JUDGMENT

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

Calendar Date: October 24, 2017

Before: Peters, P.J., McCarthy, Lynch, Clark and Mulvey, JJ.

Atiq Weston, Alden, 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. Although petitioner further seeks to be restored to the status that he enjoyed prior to the disciplinary determination, he is not entitled to such relief (see Matter of Harrison v

Annucci, 153 AD3d 1495, 1495 [2017]; Matter of Wallace v Annucci, 146 AD3d 1263, 1264 [2017]; Matter of Rufus v Annucci, 145 AD3d 1294, 1295 [2016]). Accordingly, and inasmuch as petitioner has received all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Harrison v Annucci, 153 AD3d at 1495; Matter of Rufus v Annucci, 145 AD3d at 1295). As the record reflects that petitioner paid a reduced filing fee of \$15 and he has requested a refund thereof, we grant such request for reimbursement of that amount.

Peters, P.J., McCarthy, Lynch, Clark and Mulvey, 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