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

Decided and Entered: January 25, 2018   524705
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In the Matter of LUSHER
    WALLACE,
                        Petitioner,

        v   MEMORANDUM AND JUDGMENT

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

Calendar Date: December 13, 2017

Before: Egan Jr., J.P., Devine, Mulvey, Aarons and Rumsey, JJ.

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        Lusher Wallace, Coxsackie, petitioner pro se.

        Eric T. Schneiderman, Attorney General, Albany (Marcus J.
Mastracco of counsel), for respondent.

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        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
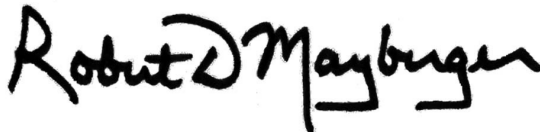violating certain prison disciplinary rules.

        Petitioner commenced this CPLR article 78 proceeding
seeking 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
institutional account. To the extent that petitioner seeks to be
restored to the status that he enjoyed prior to the disciplinary

determination, he is not entitled to this relief (see Matter of Smart v Annucci, 155 AD3d 1289, 1289 [2017]; Matter of Stone v Annucci, 155 AD3d 1214, 1214 [2017]). Accordingly, and inasmuch as petitioner otherwise has received all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Thousand v Kirkpatrick, 153 AD3d 1506, 1507 [2017]; Matter of Harrison v Annucci, 153 AD3d 1495, 1495 [2017]).

Egan Jr., J.P., Devine, Mulvey, Aarons and Rumsey, JJ., concur.

ADJUDGED that the petition is dismissed, as moot, without costs.

ENTER:

Robert D. Mayberger
Clerk of the Court