

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

Decided and Entered: April 27, 2017

523419

In the Matter of EDMIR GEGA,
Petitioner,

v

MEMORANDUM AND JUDGMENT

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

Calendar Date: February 28, 2017

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

Edmir Gega, Attica, 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.

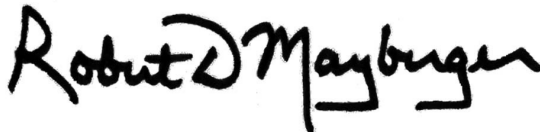
Petitioner commenced this CPLR article 78 proceeding challenging a determination finding him guilty of violating numerous prison disciplinary rules. The Attorney General has advised this Court that the determination has since been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the \$5 mandatory surcharge has been refunded to petitioner's inmate account. Although petitioner requests reinstatement of privileges, he is not entitled to be restored to the status that he enjoyed prior to the disciplinary determination (see Matter of

West v Annucci, 134 AD3d 1379, 1380 [2015]). However, the loss of good time that was imposed as part of the penalty should be restored to petitioner (see Matter of Garnes v Annucci, 144 AD3d 1277, 1277 [2016]). Otherwise, given that petitioner has been granted all of the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Simmons v Kirkpatrick, 142 AD3d 1245, 1245 [2016]).

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