

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

Decided and Entered: December 7, 2017

524634

In the Matter of DARIUS
GUILLEBEAUX,
Petitioner,
v

MEMORANDUM AND JUDGMENT

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

Calendar Date: October 24, 2017

Before: Garry, J.P., Rose, Mulvey, Aarons and Pritzker, JJ.

Darius Guillebeaux, Malone, petitioner pro se.

Eric T. Schneiderman, Attorney General, Albany (Frank Brady 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.

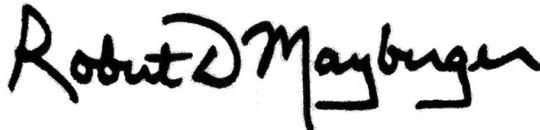
Petitioner commenced this CPLR article 78 proceeding challenging a tier III determination finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determination has since been administratively reversed, all references thereto have been expunged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

determination (see Matter of Gega v Annucci, 149 AD3d 1439, 1439 [2017]). We note that any loss of good time incurred as part of the penalty imposed should also be restored (see Matter of Worth v Venettozzi, 152 AD3d 844, 844 [2017]). Otherwise, petitioner has been granted all the relief to which he is entitled and the petition must be dismissed as moot (see Matter of Nanton v Annucci, 153 AD3d 976, 976 [2017]; Matter of Worth v Venettozzi, 152 AD3d at 845).

Garry, J.P., Rose, Mulvey, Aarons 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