

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

Decided and Entered: December 14, 2017

524974

In the Matter of MICHAEL H.
MORGAN,
Petitioner,
v

MEMORANDUM AND JUDGMENT

DONALD VENETTOZZI, as Acting
Director of Special Housing
and Inmate Disciplinary
Programs,
Respondent.

Calendar Date: October 24, 2017

Before: Egan Jr., J.P., Rose, Clark, Aarons and Pritzker, JJ.

Michael H. Morgan, Gouverneur, petitioner pro se.

Eric T. Schneiderman, Attorney General, Albany (Owen Demuth 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 the Commissioner of Corrections and Community Supervision finding petitioner guilty of violating certain prison disciplinary rules.

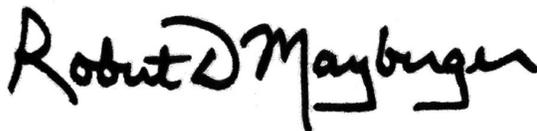
Petitioner commenced this CPLR article 78 proceeding seeking to challenge a tier III disciplinary determination finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determination has been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the mandatory \$5 surcharge has been refunded to petitioner's

inmate account. "Although petitioner seeks to be restored to the status he enjoyed prior to the disciplinary determination, including reinstatement to his prison job . . . , inmates have no constitutional or statutory right to their prior housing or programming status" (Matter of Chao v Hollingshead, 141 AD3d 1072, 1072 [2016] [internal quotation marks and citations omitted]; see Matter of Folk v Annucci, 122 AD3d 977, 978 [2014]; see also Matter of Harrison v Annucci, 153 AD3d 1495, 1495 [2017]; Matter of Scott v Fischer, 95 AD3d 1576, 1577 [2012]). 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 Chao v Hollingshead, 141 AD3d at 1072). 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 said amount.

Egan Jr., J.P., Rose, Clark, Aarons and Prizker, 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