

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

Decided and Entered: July 26, 2018

526302

In the Matter of ELVIN MUNIZ,
Petitioner,

v

MEMORANDUM AND JUDGMENT

DIRECTOR OF SPECIAL HOUSING,
DOCCS,
Respondent.

Calendar Date: June 11, 2018

Before: Egan Jr., J.P., Lynch, Devine, Aarons and Pritzker, JJ.

Elvin Muniz, Ossining, petitioner pro se.

Barbara D. Underwood, 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 the Commissioner of Corrections and Community Supervision finding petitioner guilty of violating certain prison disciplinary rules.

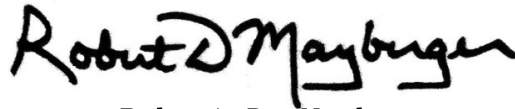
Petitioner commenced this CPLR article 78 proceeding to challenge a tier III determination finding him guilty of violating certain prison disciplinary rules. The Attorney General has advised this Court that the determination has been administratively reversed, all references thereto have been expunged 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 that he enjoyed prior to the disciplinary determination, he is not

entitled to this relief (see Matter of Thioubo v Annucci, 160 AD3d 1327, 1327 [2018]; Matter of Smart v Annucci, 155 AD3d 1289, 1289 [2017]). 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, 159 AD3d 1255, 1256 [2018]; Matter of Colon v Annucci, 156 AD3d 1099, 1099 [2017]).

Egan Jr., J.P., Lynch, Devine, 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