

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

Decided and Entered: March 14, 2019

527220

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In the Matter of ROBERT MESECK,  
Petitioner,

v

SHIRLEY NOWORYTA, as Correction  
Officer at Wyoming  
Correctional Facility,  
et al.,  
Respondents.

MEMORANDUM AND JUDGMENT

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Calendar Date: February 8, 2019

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

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Robert Meseck, Sonyea, petitioner pro se.

Letitia James, Attorney General, Albany (Marcus J. Mastracco of counsel), respondents.

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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 Commissioner of Corrections and Community Supervision finding petitioner guilty of violating a prison disciplinary rule.

Petitioner commenced this CPLR article 78 proceeding challenging a tier III disciplinary determination finding him guilty of violating a prison disciplinary rule. The Attorney General has advised this Court that the determination at issue has 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 that he be restored to the status he enjoyed prior to the disciplinary determination, he is not entitled to such relief (see Matter of Boeck v Annucci, 165 AD3d 1334, 1334 [2018]). Given that petitioner has received all the relief to which he is entitled, the petition must be dismissed as moot (see Matter of Cunningham v Annucci, 166 AD3d 1198, 1198 [2018]; Matter of Boeck v Annucci, 165 AD3d at 1334). As the record reflects that petitioner paid filing fees of \$305 and has requested reimbursement thereof, we grant petitioner's request for that amount.

Garry, P.J., Egan Jr., Lynch, Devine and Aarons, JJ.,  
concur.

ADJUDGED that the petition is dismissed, as moot, without costs, but with disbursements in the amount of \$305.

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