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

Decided and Entered: August 13, 2015 520264

In the Matter of JASON SMITH,
Petitioner,
v

MEMORANDUM AND JUDGMENT

ALBERT PRACK, as Director of Special Housing and Inmate Disciplinary Programs,
Respondent.

Calendar Date: June 8, 2015

Before: Lahtinen, J.P., McCarthy, Devine and Clark, JJ.

Jason Smith, Sonyea, 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 the Commissioner of Corrections and Community Supervision which found petitioner guilty of violating a prison disciplinary rule.

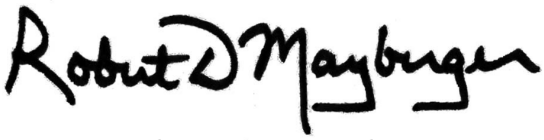
Petitioner commenced this CPLR article 78 proceeding to challenge a determination finding him guilty of violating a prison disciplinary rule. The Attorney General has advised this Court that the determination at issue has been administratively reversed, all references thereto have been expunged from petitioner's institutional record and the $5 mandatory surcharge has been refunded to petitioner's inmate account. In view of this, and given that petitioner has received all of the relief to which he is entitled, the petition must be dismissed as moot (see

Matter of Ramos v Department of Corr. & Community Supervision, 123 AD3d 1215, 1216 [2014]). We note that petitioner has no right to be restored to the status he enjoyed prior to the disciplinary determination (see Matter of Herring v Prack, 118 AD3d 1200 [2014]).

Lahtinen, J.P., McCarthy, Devine and Clark, JJ., concur.

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

ENTER:



Robert D. Mayberger
Clerk of the Court