

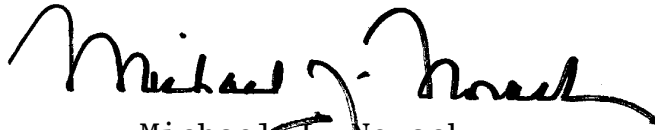
officer confiscated the net bag and discovered packets of a white substance later confirmed to be heroin. Because the drag line was hanging straight down from cell 5 and all cells were numbered the same from one company floor to the next, it was concluded that the drag line originated from petitioner's cell (i.e., cell 5, company 5). The second misbehavior report charged petitioner with unauthorized use of a controlled substance after his urine sample, obtained as a result of the incident in the first misbehavior report, twice tested positive for the presence of marihuana. Petitioner commenced this CPLR article 78 proceeding challenging the determination of guilt.

The detailed misbehavior reports, along with corresponding positive test results and witness testimony at the hearing, provide substantial evidence to support the determination (see Matter of Matos v Goord, 300 AD2d 970 [2002], lv denied ___ NY2d ___ [Mar. 27, 2003]; Matter of Davis v Selsky, 270 AD2d 548 [2000]). With respect to the first misbehavior report, petitioner maintains that there is no proof that the drag line came from his cell because the correction officer's upward view was obstructed. The correction officer who authored the misbehavior report, however, testified regarding the evidence he relied upon, albeit circumstantial, to conclude that petitioner was the source of the drag line. According to him, all inmates, including petitioner, were in their respective cells at the time of the incident and the drag line was hanging straight down from petitioner's cell (cf. Matter of Plummer v O'Keefe, 240 AD2d 827 [1997]). Turning to the charge of drug use, the documentary evidence and corroborating hearing testimony from the correction officer who tested the specimen belies petitioner's contentions that the chain of custody of his urine sample was inadequate and that proper testing procedures were not followed (see Matter of Torres v Goord, 301 AD2d 713 [2003]). Petitioner's remaining contentions have been reviewed and found to be without merit.

Cardona, P.J., Mercure, Peters, Spain and Carpinello, JJ.,
concur.

ADJUDGED that the determination is confirmed, without costs, and petition dismissed.

ENTER:



Michael J. Novack
Clerk of the Court

