

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

Decided and Entered: October 30, 2008

504484

In the Matter of IGNACIO
REYNOSO,
Petitioner,

v

MEMORANDUM AND JUDGMENT

BRIAN FISCHER, as Commissioner
of Correctional Services,
et al.,
Respondents.

Calendar Date: September 24, 2008

Before: Cardona, P.J., Spain, Carpinello, Kane and Stein, JJ.

Ignacio Reynoso, Pine City, petitioner pro se.

Andrew M. Cuomo, Attorney General, Albany (Martin A. Hotvet
of counsel), for respondents.

Proceeding pursuant to CPLR article 78 (transferred to this Court by order of the Supreme Court, entered in Chemung County) to review a determination of respondent Commissioner of Correctional Services which found petitioner guilty of violating certain prison disciplinary rules.

Petitioner, a prison inmate, was found guilty following a tier III disciplinary hearing of possession of unauthorized medication, harassment and making threats. That determination was administratively affirmed and this CPLR article 78 proceeding seeking annulment ensued.

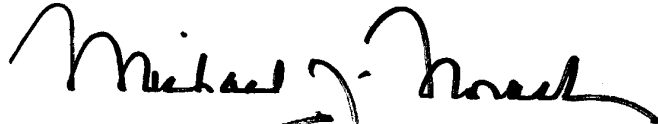
We confirm. The determination of guilt is supported by substantial evidence in the form of the misbehavior report,

related documentation and admissions made by petitioner during the hearing (see Matter of Rosa v Brown, 47 AD3d 1142, 1143 [2008]). To the extent that petitioner and his inmate witnesses offered exculpatory testimony, credibility issues were created for resolution by the Hearing Officer (see Matter of Graham v Goord, 43 AD3d 526, 526 [2007]). Petitioner's remaining contentions, including his claim that the Hearing Officer was biased, have been considered and found to be unavailing.

Cardona, P.J., Spain, Carpinello, Kane and Stein, JJ.,
concur.

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

ENTER:

A handwritten signature in black ink, appearing to read "Michael J. Novack". The signature is fluid and cursive, with a large loop at the end.

Michael J. Novack
Clerk of the Court