

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

Decided and Entered: June 21, 2012

513571

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In the Matter of WILLIAM  
WALKER,  
Petitioner,  
v

MEMORANDUM AND JUDGMENT

NORMAN R. BEZIO, as  
Superintendent of Great  
Meadow Correctional  
Facility,  
Respondent.

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Calendar Date: May 9, 2012

Before: Peters, P.J., Mercure, Malone Jr., Kavanagh and  
Egan Jr., JJ.

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William Walker, Alden, petitioner pro se.

Eric T. Schneiderman, Attorney General, Albany (Marcus J. Mastracco of counsel), for respondent.

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

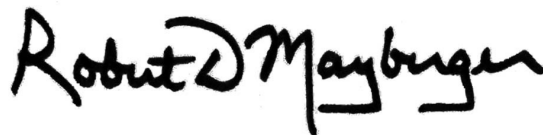
Petitioner missed his library call out and was found in his cell. As a result, he was charged in a misbehavior report with violating facility movement regulations. Following a tier II disciplinary hearing, he was found guilty of the charge and the determination was affirmed on administrative appeal. This CPLR article 78 proceeding ensued.

We confirm. The detailed misbehavior report provides substantial evidence supporting the determination of guilt (see Matter of Williams v Fischer, 92 AD3d 1053, 1054 [2012]; Matter of Joseph v LaClair, 89 AD3d 1298 [2011], lv denied 18 NY3d 809 [2012]). Although petitioner maintained that he never received the call out at issue, this presented a credibility issue for the Hearing Officer to resolve (see Matter of Povoski v Fischer, 93 AD3d 963 [2012]; Matter of Joseph v LaClair, 89 AD3d at 1298). Petitioner's remaining contentions have not been preserved for our review due to his failure to raise them either at the hearing or in his administrative appeal.

Peters, P.J., Mercure, Malone Jr., Kavanagh and Egan Jr., JJ., concur.

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

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