

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

Decided and Entered: December 12, 2019

529272

In the Matter of WILLIAM
STEELE,
Petitioner,

v

ANTHONY J. ANNUCCI, as Acting
Commissioner of Corrections
and Community Supervision,
et al.,
Respondents.

MEMORANDUM AND JUDGMENT

Calendar Date: November 8, 2019

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

William Steele, Stormville, petitioner pro se.

Letitia James, Attorney General, Albany (Victor Paladino
of counsel), for respondents.

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 certain prison disciplinary rules.

A correction officer gave petitioner an order to pack up
his belongings in preparation for a move from his cell to a bed
in C dorm. Petitioner refused, told the officer that he could
not sleep in a dorm and requested to speak to a sergeant. When
the sergeant arrived, he repeated the directive and reminded

petitioner that this was a direct order, the violation of which could result in his placement in the special housing unit. Petitioner became agitated, used profanity and told the sergeant that he did not care and to take him to the special housing unit. At this point, the sergeant noticed that petitioner's behavior had drawn the attention of other inmates. As a result of this incident, petitioner was charged in a misbehavior report with refusing a direct order, creating a disturbance, harassment and violating facility movement regulations. He was found guilty of the charges following a tier III disciplinary hearing. The determination was later affirmed on administrative appeal, and this CPLR article 78 proceeding ensued.

We confirm. The detailed misbehavior report and hearing testimony provide substantial evidence supporting the determination of guilt (see Matter of Woodward v Annucci, 175 AD3d 785, 785-786 [2019]; Matter of Cosme v New York State Dept. of Corr. & Community Supervision, 168 AD3d 1327, 1328 [2019]). Although petitioner maintained that the misbehavior report was written in retaliation for prior complaints that he had made against correction officers, this presented a credibility issue for the Hearing Officer to resolve (see Matter of Cosme v New York State Dept. of Corr. & Community Supervision, 168 AD3d at 1328; Matter of Scott v Annucci, 164 AD3d 1553, 1553-1554 [2018]). Moreover, petitioner was not improperly denied witnesses whose testimony would have been irrelevant or redundant (see Matter of Cruz v Annucci, 152 AD3d 1100, 1102 [2017]; Matter of Henderson v Venettozzi, 142 AD3d 1261, 1262 [2016]). Furthermore, contrary to petitioner's claim, the record does not reveal that the Hearing Officer was biased or that the determination flowed from any alleged bias (see Matter of Woodward v Annucci, 175 AD3d at 787; Matter of Caldwell v Venettozzi, 166 AD3d 1184, 1185 [2018]). We have considered petitioner's remaining contentions and find them to be unavailing.

Garry, P.J., Egan Jr., Devine and Aarons, 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 style with a large, stylized 'R' and 'M'.

Robert D. Mayberger
Clerk of the Court