

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

Decided and Entered: May 25, 2006

99015

In the Matter of CARLOS
MAULEON,
Petitioner,

v

MEMORANDUM AND JUDGMENT

GLENN S. GOORD, as Commissioner
of Correctional Services,
et al.,
Respondents.

Calendar Date: April 12, 2006

Before: Cardona, P.J., Mercure, Crew III, Peters and
Carpinello, JJ.

Carlos Mauleon, Attica, petitioner pro se.

Eliot Spitzer, Attorney General, Albany (Wayne L. Benjamin
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 directed that petitioner be placed in
administrative segregation.

While petitioner was confined at Elmira Correctional
Facility in Chemung County, a recommendation was made that he be
placed in administrative segregation because he was suspected of
having committed a homicide at another correctional facility and
had a history of extorting other inmates. Following a hearing, a
determination was rendered placing him in administrative
segregation "for the safety and security of the facility," and

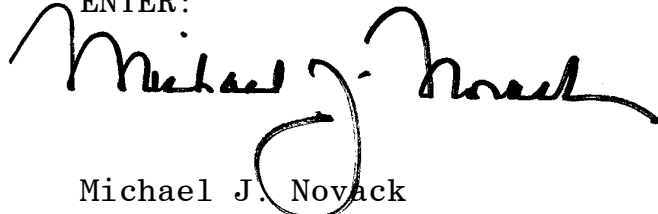
the determination was upheld on administrative appeal, prompting the commencement of this CPLR article 78 proceeding.

Initially, we note that petitioner did not contest his actual placement in administrative segregation at the hearing, but conceded that it was necessary for his own protection. His real dispute appears to be with the grounds upon which the determination was based. Consequently, it appears that the appropriate remedy would be to seek the removal of the allegedly erroneous information from his inmate records (see 7 NYCRR 5.50 et seq.). In any event, to the extent that the petition itself may be construed as challenging the determination placing him in administrative segregation instead of protective custody, we find that substantial evidence, consisting of petitioner's testimony and the confidential information considered and independently assessed by the Hearing Officer for credibility and reliability, supports the determination at issue (see Matter of Blake v Selsky, 10 AD3d 774, 775 [2004]; Matter of Rosales v Goord, 265 AD2d 713, 713-714 [1999], lv denied 94 NY2d 758 [2000]).

Cardona, P.J., Mercure, Crew III, Peters and Carpinello, 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 written in a cursive style with a large, looping initial "M".

Michael J. Novack
Clerk of the Court