

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

Decided and Entered: January 11, 2007

98720

---

In the Matter of DENNIS E.

HOOD,

Petitioner,

v

MEMORANDUM AND JUDGMENT

GLENN S. GOORD, as Commissioner  
of Correctional Services,  
Respondent.

---

Calendar Date: November 27, 2006

Before: Peters, J.P., Spain, Carpinello, Mugglin and Rose, JJ.

---

Dennis E. Hood, Beacon, petitioner pro se.

Andrew M. Cuomo, Attorney General, Albany (Peter H. Schiff  
of counsel), for respondent.

---

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 which found petitioner guilty of violating certain prison disciplinary rules.

Petitioner was charged in a misbehavior report with violating the prison disciplinary rules prohibiting harassment, threats, making false statements, and attempting to force others to engage in sexual acts after he wrote a sexually explicit letter to a correction counselor. Following a tier III disciplinary hearing, petitioner was found guilty as charged. The determination was affirmed upon administrative appeal, although the penalty imposed was modified. This CPLR article 78 proceeding by petitioner ensued.

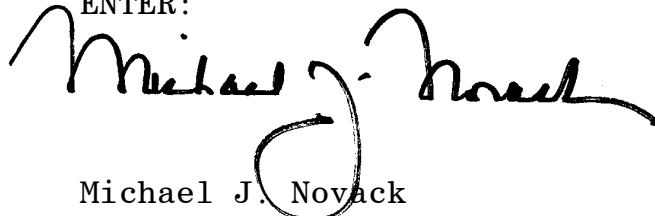
Substantial evidence to support the determination of guilt was presented in the form of the offending letter, exemplars of petitioner's handwriting, the misbehavior report and the testimony of the correction officer who authored it (see Matter of Torres v Goord, 306 AD2d 592, 593 [2003], lv denied 100 NY2d 515 [2003]; Matter of Rodriguez v Goord, 261 AD2d 740, 741 [1999], lv denied 93 NY2d 818 [1999]). No expert witness testimony was required as hearing officers are permitted to independently assess handwriting samples (see Matter of Johnson v Coombe, 271 AD2d 780, 780-781 [2000]; Matter of Burgess v Goord, 269 AD2d 722, 722-723 [2000]; Matter of Smith v Coughlin, 198 AD2d 726 [1993]). Petitioner's claim that he did not write the offending letter created a credibility issue for the Hearing Officer to resolve (see Matter of Torres v Goord, supra at 593).

Finally, petitioner's remaining claims regarding DNA tests relate to his 1988 criminal conviction and, thus, are not properly raised in this CPLR article 78 proceeding.

Peters, J.P., Spain, Carpinello, Mugglin and Rose, 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