

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

Decided and Entered: March 23, 2017

523367

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In the Matter of HIKEEM GREEN,  
Petitioner,

v

MEMORANDUM AND JUDGMENT

ANTHONY J. ANNUCCI, as Acting  
Commissioner of Corrections  
and Community Supervision,  
Respondent.

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Calendar Date: January 24, 2017

Before: Garry, J.P., Lynch, Rose, Devine and Aarons, JJ.

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Hikeem Green, Dannemora, petitioner pro se.

Eric T. Schneiderman, Attorney General, Albany (William E. Storrs 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 Albany County) to review a determination of respondent finding petitioner guilty of violating a prison disciplinary rule.

Petitioner was charged in a misbehavior report with using a controlled substance after a sample of his urine twice tested positive for the presence of buprenorphine. He was found guilty of the charge at the conclusion of a tier III disciplinary hearing and the determination was later affirmed on administrative appeal. This CPLR article 78 proceeding ensued.

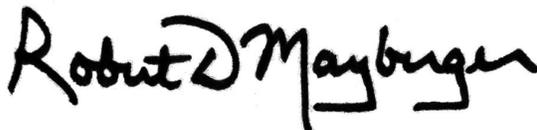
We confirm. The misbehavior report, positive urinalysis test results and related documentation, together with the testimony of the correction officer who tested the sample,

provide substantial evidence supporting the determination of guilt (see Matter of Martinez v Annucci, 134 AD3d 1380, 1380-1381 [2015]; Matter of Green v Annucci, 134 AD3d 1376, 1376-1377 [2015]). Contrary to petitioner's claim, there was an adequate foundation laid for the admission of the positive test results as the request for urinalysis form that was read into the record revealed an unbroken chain of custody in the handling of the sample (see Matter of Green v Annucci, 134 AD3d at 1377; Matter of Paddyfote v Fischer, 118 AD3d 1240, 1241 [2014]). Moreover, although petitioner denied using drugs and maintained that he was being targeted by a correction officer, this presented a credibility issue for the Hearing Officer to resolve (see Matter of Williams v Annucci, 141 AD3d 1062, 1062 [2016]; Matter of Jones v Fischer, 138 AD3d 1294, 1295 [2016]). Furthermore, upon reviewing the record, we find nothing to indicate that the Hearing Officer was biased or that the determination flowed from any alleged bias (see Matter of Williams v Prack, 130 AD3d 1123, 1124 [2015]; Matter of Hyzer v Fischer, 104 AD3d 983, 983 [2013]). Petitioner's remaining contentions have either not been preserved for our review or are lacking in merit.

Garry, J.P., Lynch, Rose, 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, slightly slanted style.

Robert D. Mayberger  
Clerk of the Court