

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

Decided and Entered: September 21, 2017

524278

In the Matter of ANGEL
BEAUCHAMP,

Petitioner,

v

MEMORANDUM AND JUDGMENT

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

Calendar Date: August 7, 2017

Before: McCarthy, J.P., Lynch, Devine, Aarons and Pritzker, JJ.

Angel Beauchamp, Cossackie, petitioner pro se.

Eric T. Schneiderman, Attorney General, Albany (Marcus J. Mastracco 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 finding petitioner guilty of violating a prison disciplinary rule.

Petitioner was charged in a misbehavior report with using a controlled substance after his urine twice tested positive for the presence of two different drugs. Following a tier III disciplinary hearing, petitioner was found guilty and that determination was affirmed upon administrative appeal. This CPLR article 78 proceeding ensued.

We confirm. The misbehavior report, positive urinalysis test results and related documentation, along with the testimony

at the hearing – including petitioner's admission that he knew he smoked "something" – provide substantial evidence to support the determination of guilt (see Matter of Green v Annucci, 148 AD3d 1443, 1444 [2017], lv denied 29 NY3d 916 [2017]; Matter of Cotterell v Taylor-Stewart, 145 AD3d 1245, 1246 [2016]).

Contrary to petitioner's contention, the correction officer who performed the urinalysis tests adequately explained, and a review of the misbehavior report, log book and urinalysis procedure forms confirms, that the discrepancies in the misbehavior report were clerical errors (see Matter of Rosario v Prack, 119 AD3d 1302, 1302 [2014]; Matter of Davis v Fischer, 98 AD3d 1154, 1155 [2012]). As such, we find that the validity of the test results was not undermined (see Matter of Green v Annucci, 134 AD3d 1376, 1377 [2015]; Matter of Faraldo v Bezio, 93 AD3d 1007, 1008 [2012]). Petitioner's remaining contentions, to the extent that they are preserved, have been reviewed and found to be without merit.

McCarthy, J.P., Lynch, Devine, Aarons and Pritzker, JJ.,
concur.

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

ENTER:

A handwritten signature in black ink, reading "Robert D. Mayberger". The signature is written in a cursive, flowing style with a large, stylized "R" and "M".

Robert D. Mayberger
Clerk of the Court