

We confirm. The misbehavior report, testimony of the correction officer who found the weapon and a photograph of the weapon provide substantial evidence to support the determination (see Matter of Miller v Venettozzi, 149 AD3d 1451, 1451 [2017]; Matter of Thompson v Annucci, 145 AD3d 1303, 1304 [2016]). Petitioner's denial that there was a weapon in his cell and claims that the weapon was planted in retaliation for a recent grievance he had filed against another officer, which were explored at the hearing and denied by the testifying officers, created a credibility issue for the Hearing Officer to resolve (see Matter of Ramos v Annucci, 150 AD3d 1510, 1511 [2017]).

Contrary to petitioner's claim, he was not denied meaningful assistance from his employee assistant. Any claim regarding witnesses who refused to testify when interviewed by the employee assistant, and were not thereafter requested as witnesses by petitioner at the hearing, is unpreserved (see Matter of Davis v Annucci, 140 AD3d 1432, 1433 [2016], appeal dismissed 28 NY3d 1109 [2016]; Matter of Rodriguez v Fischer, 138 AD3d 1328, 1329 [2016]).

Finally, while there are many inaudible gaps in the hearing transcript, we do not find that they are "so significant as to preclude meaningful [judicial] review" (Matter of Robinson v Lee, 155 AD3d 1169, 1170 [2017] [internal quotation marks and citation omitted]). Petitioner's remaining contentions have been reviewed and, to the extent that they are preserved, have been found to be without merit.

McCarthy, J.P., Devine, Clark, Aarons and Pritzker, 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