

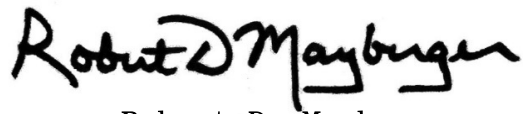
petitioner's pants, prompting petitioner to admit that he had an unidentified liquid concealed in a container on his body. As a result of this incident, petitioner was charged in a misbehavior report with refusing a direct order and violating urinalysis testing procedures. Following a tier III disciplinary hearing, petitioner was found guilty as charged and that determination was affirmed upon administrative appeal. This CPLR article 78 proceeding ensued.

We confirm. The misbehavior report and testimony presented at the hearing, including the testimony from the correction officer involved in the incident, provide substantial evidence to support the determination of guilt (see Matter of McDay v Annucci, 156 AD3d 1082, 1083 [2017]; Matter of Dushane v Fischer, 102 AD3d 1043, 1043-1044 [2013]; Matter of White v Fischer, 95 AD3d 1582, 1583 [2012]). Although petitioner contends that he could not be found guilty as charged because there was no evidence that he possessed contraband, the Hearing Officer could reasonably infer from the evidence presented that petitioner planned to submit the unidentified liquid in the container as his urine sample in an attempt to circumvent the urinalysis testing procedures (see Matter of Dushane v Fischer, 102 AD3d at 1043-1044; Matter of Kae v Bezio, 79 AD3d 1496, 1497 [2010]; Matter of Billue v Goord, 28 AD3d 845, 845-846 [2006]). To the extent that petitioner contends that he never refused to submit a urine sample or possessed a container with an unidentified liquid, this presented a credibility issue for the Hearing Officer to resolve (see Matter of McDay v Annucci, 156 AD3d at 1083; Matter of Billue v Goord, 28 AD3d at 846). Petitioner's remaining contentions are either unpreserved or otherwise lacking in merit.

Garry, P.J., McCarthy, Aarons, Rumsey 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 style with a large, stylized initial "R".

Robert D. Mayberger
Clerk of the Court