

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

Decided and Entered: November 10, 2021

533088

In the Matter of AARON Q.
KETCHMORE,
Petitioner,

v

MEMORANDUM AND JUDGMENT

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

Calendar Date: October 8, 2021

Before: Egan Jr., J.P., Aarons, Pritzker, Reynolds Fitzgerald
and Colangelo, JJ.

Aaron Q. Ketchmore, Elmira, petitioner pro se.

Letitia James, Attorney General, Albany (Kate H. Nepveu 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 certain prison disciplinary
rules.

After an incarcerated individual was observed with a five-
inch laceration to his neck, the ensuing investigation, that
included confidential information, resulted in petitioner being
charged in a misbehavior report with assault, creating a
disturbance, smuggling, violent conduct and possessing a weapon.

Following a tier III disciplinary hearing, petitioner was found not guilty of smuggling, but guilty of the remaining charges. That determination was affirmed upon administrative appeal, and this CPLR article 78 proceeding ensued.

We confirm. The misbehavior report, hearing testimony and confidential testimony considered by the Hearing Officer provide substantial evidence supporting the finding of guilt (see Matter of Mendez v Annucci, 155 AD3d 1146, 1147 [2017]; Matter of Mears v Venettozzi, 150 AD3d 1498, 1499 [2017], lv denied 30 NY3d 905 [2017]). Contrary to petitioner's assertion, the Hearing Officer's confidential interview with the correction officer who conducted the investigation and authored the misbehavior report was sufficiently detailed to independently assess the reliability of the confidential information (see Matter of Ortiz v Annucci, 163 AD3d 1383, 1384 [2018]; Matter of Johansel v Annucci, 155 AD3d 1147, 1148 [2017]). Finally, petitioner's denial of his involvement in the incident presented a credibility issue for the Hearing Officer to resolve (see Matter of Spencer v Annucci, 179 AD3d 1372, 1373 [2020]; Matter of Jones v Annucci, 156 AD3d 1093, 1094 [2017]).

Egan Jr., J.P., Aarons, Pritzker, Reynolds Fitzgerald and Colangelo, 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