

affirmed upon administrative appeal, prompting petitioner to commence this CPLR article 78 proceeding.

We confirm. The misbehavior report, testimony from its author, the videotape evidence and petitioner's testimony that he pushed water from an overflowing toilet out of his cell and into the company hallway provide substantial evidence to support the determination finding petitioner guilty of engaging in an unhygienic act (*see Matter of Dawes v Selsky*, 247 AD2d 773, 773-774 [3d Dept 1998], *lv denied* 92 NY2d 802 [1998]). To the extent that petitioner contends that the entire disciplinary hearing was not recorded because the video of the incident was initially viewed off the record, such contention is not preserved as petitioner did not object at the hearing at the time that it could have been addressed (*see Matter of Washington v Annucci*, 160 AD3d 1248, 1249 [3d Dept 2018]). Petitioner's remaining contention alleging Hearing Officer bias is also unpreserved as it was not raised on administrative appeal (*see Matter of Stewart v Collado*, 214 AD3d 1229, 1230 [3d Dept 2023]). In any event, were we to consider these issues, we would find them to be without merit.

Garry, P.J., Clark, Pritzker, Fisher and Powers, 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