

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

Decided and Entered: March 12, 2026

CV-25-0350

In the Matter of DUANE

MORRISON, Also Known as
D'UONE MORRISON and
DUONE MORRISON, Now
Known as AMUN WAKEEM
MANSA,

Petitioner,

MEMORANDUM AND JUDGMENT

v

KEVIN McCARTHY, as

Superintendent of Elmira
Correctional Facility,

Respondent.

Calendar Date: February 6, 2026

Before: Clark, J.P., Reynolds Fitzgerald, Fisher, Powers and Mackey, JJ.

Duane Morrison, 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 Chemung County) to review a determination of respondent finding petitioner guilty of violating a prison disciplinary rule.

Petitioner was charged in a misbehavior report with losing state property after a suspicion-based search of his cell failed to uncover his state-issued razor. Following a tier

II disciplinary hearing, petitioner was found guilty of the charge and that determination was affirmed on administrative appeal. This CPLR article 78 proceeding ensued.

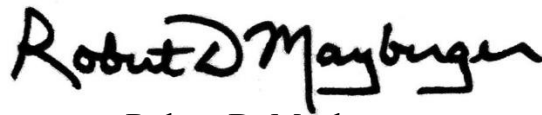
We confirm. The misbehavior report, which notes that "a very thorough cell search" was conducted, and confirmatory testimony from its author provide substantial evidence to support the determination finding petitioner guilty (*see Matter of Verdi v Collado*, 200 AD3d 1379, 1380 [3d Dept 2021]; *Matter of Tinker v Bezio*, 106 AD3d 1356, 1357 [3d Dept 2013]; *Matter of Crenshaw v Fischer*, 87 AD3d 1189, 1190 [3d Dept 2011]).

We are unpersuaded by petitioner's contention that he was prejudiced by the omission in the misbehavior report of a conversation that the author testified he had with petitioner regarding the missing razor. A review of the misbehavior report reflects that the information therein provided petitioner with enough particulars of the charge against him to enable him to respond and prepare a defense (*see Matter of Hammock v Keyser*, 222 AD3d 1097, 1097 [3d Dept 2023]; *Matter of Ortiz v Fischer*, 91 AD3d 1006, 1007 [3d Dept 2012]; *Matter of Faison v Senkowski*, 255 AD2d 625, 626 [3d Dept 1998], *appeal dismissed* 93 NY2d 847 [1999]). Furthermore, petitioner has not demonstrated any prejudice due to such omission as he was provided an opportunity at the hearing to question the author about the alleged conversation (*see generally Matter of Faraldo v Bezio*, 93 AD3d 1007, 1008 [3d Dept 2012]). Finally, contrary to petitioner's contention, we find no error in the Hearing Officer denying petitioner's request for a witness upon a finding that any testimony regarding petitioner's possession of a razor the day *after* the cell search was irrelevant (*see Matter of Kotler v Goord*, 17 AD3d 828, 829 [3d Dept 2005], *lv dismissed & denied* 5 NY3d 755 [2005]; *Matter of Blanche v Selsky*, 253 AD2d 944, 945 [3d Dept 1998], *lv denied* 92 NY2d 817 [1998]).

Clark, J.P., Reynolds Fitzgerald, Fisher, Powers and Mackey, 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, prominent "R" and "M".

Robert D. Mayberger
Clerk of the Court