

**APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW
YORK, THIRD DEPARTMENT**

Burnett v. Fischer

106 A.D.3d 1304 (N.Y. App. Div. 2013) · Decided May 16, 2013

SUMMARY

The court reviewed a prison disciplinary determination finding the petitioner guilty of possessing contraband and a prison employee's personal information. It held that the challenged document was properly considered despite the petitioner's chain-of-custody claim and that the determination was supported by substantial evidence, confirming the determination and dismissing the petition.

OPINION

PER CURIAM.

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 Commissioner of Corrections and Community Supervision which found petitioner guilty of violating certain prison disciplinary rules. Petitioner, a prison inmate, was charged with violating various prison disciplinary rules after a search of her cube disclosed, among other things, a handwritten document containing the personal information of a prison employee.

As a result of that document, she was ultimately found guilty of possessing contraband and an employee's personal information. The determination was affirmed upon administrative appeal, prompting petitioner to commence this CPLR article 78 proceeding.

We confirm. Petitioner argues that the document was improperly considered given purported problems with the chain *1305of custody, but it was secured in a locked office after the search of her cube, and she provided no evidence to substantiate her claim that the document could have been tampered with while stored there (see *Matter of Saif'Ul'Bait v Goord*, 15 AD3d 703, 705 [2005]; *Matter of Price v Coughlin*, 116 AD2d 898, 899 [1986]).

The document, as well as the misbehavior report and hearing testimony, provide substantial evidence to support the determination of guilt (see *Matter of Austin v Venettozzi*, 97 AD3d 867, 867 [2012]). Petitioner's remaining claims, to the extent they are properly before us, have been considered and found to lack merit. Rose, J.P, Stein, Garry and Egan Jr., JJ., concur.

Adjudged that the determination is confirmed, without costs, and petition dismissed.

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