

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

Matter of Angevine v. Martuscello

2026 NY Slip Op 01265 · No. CV-25-1243 · Decided March 5, 2026

SUMMARY

The Appellate Division, Third Department confirmed a prison disciplinary determination finding Jaquan Angevine guilty of conspiring to have an incarcerated individual assaulted, violent conduct, gang involvement, and making threats. The court held that substantial evidence supported the determination, rejected challenges to confidential information and due process, and dismissed the proceeding as to the excessive-penalty claim because the penalty had been served and petitioner had been released from state custody.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Aarons, J.P.; Fisher, J.; McShan, J.; Powers, J.; Mackey, J.
JURISDICTION	Appellate Division, Third Department, New York
DECIDED	March 5, 2026
DOCKET	CV-25-1243
DISPOSITION	affirmed
PROCEDURAL POSTURE	CPLR article 78 proceeding transferred to the Appellate Division by order of the Supreme Court, Albany County, to review a prison disciplinary determination.
STANDARD OF REVIEW	Whether the administrative determination is supported by substantial evidence; credibility determinations are generally left to the Hearing Officer, and confidential information must contain sufficient indicia of reliability for independent assessment.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Jaquan Angevine v. Daniel F. Martuscello III, as Commissioner of Corrections and Community Supervision, Respondents

TOPICS

judicial review of agency action

administrative law

procedural due process

appellate procedure

mootness

PRACTICE AREAS

administrative law

prison disciplinary proceedings

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether substantial evidence supported the prison disciplinary determination finding petitioner guilty of the charged violations.
2. Whether the confidential information used at the disciplinary hearing was sufficiently reliable to support the determination.
3. Whether the alleged failure to comply with petitioner's Freedom of Information Law request violated due process and was properly raised in the article 78 proceeding.
4. Whether the disciplinary penalty was excessive.

HOLDINGS

1. The detailed misbehavior report, supporting documentation, hearing testimony, and confidential information constituted substantial evidence supporting petitioner's guilt.
2. The confidential information was sufficient because it provided enough information for the Hearing Officer to independently assess its reliability.
3. The due process claim based on the alleged failure to comply with the Freedom of Information Law request was not properly before the court because the petition sought only to annul the disciplinary determination.
4. The challenge to the penalty was moot because petitioner had served the penalty and had been released from state custody.

KEY QUOTATIONS

*“the detailed misbehavior report, supporting documentation, testimony at the hearing and confidential information constitute substantial evidence supporting the determination of guilt” (*1)*

*“petitioner's assertion that the penalty imposed was excessive is moot as he has served the penalty and has been released from state custody” (*2)*

FACTUAL BACKGROUND

After an investigation into a group attack on an incarcerated individual, petitioner was charged with conspiring to have the victim assaulted, violent conduct, gang involvement, and threats. The misbehavior report alleged that petitioner was a ranking Bloods gang member who controlled phone use in his dorm, threatened the victim over unauthorized phone use, conspired with five other gang members, ordered the assault, and monitored it from the phone area. At the disciplinary hearing, petitioner denied the allegations and the victim testified that petitioner had never threatened him or been involved in an altercation with him.

PROCEDURAL HISTORY

Following a tier III disciplinary hearing, petitioner was found guilty of conspiring to have an incarcerated individual assaulted, engaging in violent conduct, gang involvement, and making threats, and a penalty was imposed. The determination was affirmed on administrative appeal. Petitioner then commenced this CPLR article 78 proceeding, which was transferred to the Appellate Division; the court confirmed the determination and dismissed the petition.

DISPOSITION

affirmed

CASES CITED

- Matter of Johansel v. Annucci, 155 AD3d 1147, 1148 (3d Dept. 2017)
- Matter of Chandler v. Annucci, 135 AD3d 1258, 1259 (3d Dept. 2016)
- Matter of Espinal v. Fischer, 114 AD3d 978, 979 (3d Dept. 2014)
- Matter of Smith v. Annucci, 232 AD3d 1014, 1015 (3d Dept. 2024)
- Matter of Estrada v. Annucci, 199 AD3d 1145, 1146 (3d Dept. 2021)
- Matter of Thomas v. Annucci, 237 AD3d 1323, 1324 (3d Dept. 2025)
- Matter of Sealey v. Annucci, 177 AD3d 1072, 1073 (3d Dept. 2019), lv denied 35 NY3d 904 (2020)

OPINION

PER CURIAM.

Matter of Angevine v Martuscello (2026 NY Slip Op 01265) Matter of Angevine v Martuscello 2026 NY Slip Op 01265 Decided on March 5, 2026 Appellate Division, Third Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided and Entered:March 5, 2026 CV-25-1243 [*1]In the Matter of Jaquan Angevine, Petitioner, v Daniel F. Martuscello III, as Commissioner of Corrections and Community Supervision, et al., Respondents.

Calendar Date:February 6, 2026 Before:Aarons, J.P., Fisher, McShan, Powers and Mackey, JJ. Jaquan Angevine, Brooklyn, petitioner pro se. Letitia James, Attorney General, Albany (Kate H. Nepveu of counsel), for respondents. 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 finding petitioner guilty of violating certain prison disciplinary rules.

Following an investigation into a physical attack on the victim by a group of incarcerated individuals, petitioner was charged in a misbehavior report with conspiring to have an incarcerated

individual assaulted, engaging in violent conduct, gang involvement and making threats. According to the misbehavior report, petitioner is being tracked as a ranking Bloods "Gorilla Stone" gang member and, in furtherance of gang activities, controlled the phone use for incarcerated individuals in his dorm unit.

The report indicates that petitioner had been threatening violence against the victim for continuing to use the phones without authorization or compensation to petitioner. Shortly before the attack, the report continues, petitioner met and conspired with five other incarcerated individuals, all identified as gang members, near the phones and that petitioner ordered those incarcerated individuals to carry out an assault on the victim while petitioner monitored the assault from the phone unit.

Following a tier III disciplinary hearing, petitioner was found guilty of all charges and a penalty was imposed. That determination was affirmed upon administrative appeal, and this CPLR article 78 proceeding ensued.

We confirm. Contrary to petitioner's contention, the detailed misbehavior report, supporting documentation, testimony at the hearing and confidential information constitute substantial evidence supporting the determination of guilt (see *Matter of Johansel v Annucci*, 155 AD3d 1147, 1148 [3d Dept 2017]; *Matter of Chandler v Annucci*, 135 AD3d 1258, 1259 [3d Dept 2016]; *Matter of Espinal v Fischer*, 114 AD3d 978, 979 [3d Dept 2014]).

Although petitioner denied the allegations and the victim testified that he was never threatened or involved in an altercation with petitioner regarding the phones, this information presented a credibility issue for the Hearing Officer to resolve (see *Matter of Smith v Annucci*, 232 AD3d 1014, 1015 [3d Dept 2024]; *Matter of Estrada v Annucci*, 199 AD3d 1145, 1146 [3d Dept 2021]).

As for petitioner's challenge to the confidential information, upon our review of such evidence, we are satisfied that there was sufficient information for the Hearing Officer to independently assess the reliability of the confidential information provided (see *Matter of Thomas v Annucci*, 237 AD3d 1323, 1324 [3d Dept 2025]; *Matter of Johansel v Annucci*, 155 AD3d at 1148).

Petitioner's contention that his constitutional right to due process was violated when the Department of Corrections and Community Supervision failed to comply with his Freedom of Information Law request is not properly before us, as the underlying petition seeks to annul the disciplinary determination[*2](see *Matter of Sealey v Annucci*, 177 AD3d 1072, 1073 [3d Dept 2019], lv denied 35 NY3d 904 [2020]).

We do note, however, that petitioner received a copy of the hearing transcript attached to respondents' answer. Finally, petitioner's assertion that the penalty imposed was excessive is moot as he has served the penalty and has been released from state custody. Aarons, J.P., Fisher,

McShan, Powers and Mackey, JJ., concur. ADJUDGED that the determination is confirmed, without costs, and petition dismissed.

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