

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

Reddish v. Fischer

107 A.D.3d 1265 (N.Y. App. Div. 2013) · Decided June 20, 2013

SUMMARY

The court reviewed a prison disciplinary determination under CPLR article 78, finding petitioner guilty of possessing grievance documentation belonging to other inmates and distributing departmental documentation without authorization. It held that the misbehavior report, related documentation, and petitioner’s admissions provided substantial evidence supporting the determination and dismissed the proceeding.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Department
WRITING FOR THE COURT	Lahtinen, J.P.; Spain, J.; McCarthy, J.; Garry, J.
JURISDICTION	New York
DECIDED	June 20, 2013
DISPOSITION	dismissed
PROCEDURAL POSTURE	CPLR article 78 proceeding reviewing an administrative determination finding petitioner guilty of prison disciplinary violations; the proceeding was transferred to the Appellate Division by order of Supreme Court, Albany County.
STANDARD OF REVIEW	Whether the administrative determination is supported by substantial evidence; credibility determinations are left to the Hearing Officer.
PRECEDENTIAL VALUE	Published appellate decision
PARTIES	Reddish v. Fischer

TOPICS

- judicial review of agency action
- agency adjudication
- administrative law
- civil procedure

PRACTICE AREAS

- administrative law
- civil procedure
- prison disciplinary proceedings

QUESTIONS PRESENTED

1. Whether substantial evidence supported the determination that petitioner possessed grievance documentation pertaining to other inmates and distributed departmental documentation without authorization.
2. Whether petitioner's claim that he was merely assisting other inmates and did not intend to deceive anyone required reversal of the determination.

HOLDINGS

1. The determination finding petitioner guilty of possessing grievance documentation pertaining to other inmates and distributing departmental documentation without authorization was supported by substantial evidence.
2. Petitioner's claim that he merely assisted other inmates and lacked an intent to deceive presented a credibility issue for the Hearing Officer, and did not warrant disturbing the determination.

KEY QUOTATIONS

“The misbehavior report and related documentation, together with petitioner’s admission to writing the grievances and addressing the envelope in which they were placed, provide substantial evidence supporting the determination of guilt” (1266)

“Petitioner’s claim that he was merely assisting other inmates and did not intend to deceive anyone presented a credibility issue for the Hearing Officer to resolve” (1266)

FACTUAL BACKGROUND

Mail room personnel discovered a manila envelope containing 24 grievances signed by different inmates from one housing location. An investigation determined that petitioner, chair of the Inmate Liaison Committee, solicited the inmates to file the grievances and authored them himself. Petitioner admitted writing the grievances and addressing the envelope in which they were placed.

PROCEDURAL HISTORY

A tier III disciplinary hearing found petitioner guilty of possessing grievance documentation belonging to other inmates and distributing departmental documentation without authorization, but not guilty of engaging in a demonstration. The determination was affirmed on administrative appeal. Petitioner then commenced this CPLR article 78 proceeding, which was transferred to the Appellate Division for review.

DISPOSITION

dismissed

CASES CITED

- Matter of Peoples v Bezio, 94 A.D.3d 1299, 1300 (2012)
- Matter of Fuentes v Fischer, 89 A.D.3d 1339, 1339 (2011)

- Matter of McMoore v Bezio, 63 A.D.3d 1463, 1464 (2009), lv denied, 13 N.Y.3d 707 (2009)
- Matter of Reynoso v Fischer, 55 A.D.3d 1201 (2008), appeal dismissed, 11 N.Y.3d 916 (2009)

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 which found petitioner guilty of violating certain prison disciplinary rules. At the correctional facility where petitioner was incarcerated, mail room personnel discovered a manila envelope containing 24 grievances signed by different inmates from one particular housing location.

Through an investigation, it was determined that petitioner, who was chair of the Inmate Liaison Committee, solicited the inmates to file the grievances and authored them *1266himself. He was charged in a misbehavior report with possessing grievance documentation pertaining to other inmates (see 7 NYCRR 270.2 [B] [14] [xvii]), distributing departmental documentation without authorization (see 7 NYCRR 270.2 [B] [17] [in]) and engaging in a demonstration (see 7 NYCRR 270.2 [B] [5] [iv]).

At the conclusion of a tier III disciplinary hearing, petitioner was found guilty of the former two charges, but not of the latter. This determination was affirmed on administrative appeal, resulting in this CPLR article 78 proceeding.

We confirm. The misbehavior report and related documentation, together with petitioner's admission to writing the grievances and addressing the envelope in which they were placed, provide substantial evidence supporting the determination of guilt (see Matter of Peoples v Bezio, 94 AD3d 1299, 1300 [2012]; Matter of Fuentes v Fischer, 89 AD3d 1339, 1339 [2011]).

Petitioner's claim that he was merely assisting other inmates and did not intend to deceive anyone presented a credibility issue for the Hearing Officer to resolve (see Matter of McMoore v Bezio, 63 AD3d 1463, 1464 [2009], lv denied 13 NY3d 707 [2009]; Matter of Reynoso v Fischer, 55 AD3d 1201 [2008], appeal dismissed 11 NY3d 916 [2009]). His remaining contentions are lacking in merit.

Therefore, we find no reason to disturb the determination of guilt. Lahtinen, J.P., Spain, McCarthy and Garry, JJ., concur. Adjudged that the determination is confirmed, without costs, and petition dismissed.