

**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.

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.