

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

Matter of Canzater-Smith v. Venettozzi

2017 NY Slip Op 04017 (App. Div. 2017) · No. 523648 · Decided May 18, 2017

SUMMARY

The New York Appellate Division, Third Department, reviewed a CPLR article 78 proceeding challenging a prison disciplinary determination finding the petitioner guilty of multiple disciplinary violations. The court held that substantial evidence supported the determination, rejected the petitioner's procedural and bias claims, confirmed the determination, and dismissed the petition.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Peters, P.J.; Garry, J.; Egan Jr., J.; Devine, J.; Aarons, J.
JURISDICTION	New York
DECIDED	May 18, 2017
DOCKET	523648
DISPOSITION	dismissed
PROCEDURAL POSTURE	CPLR article 78 proceeding transferred from Supreme Court, Albany County, to review a prison disciplinary determination.
STANDARD OF REVIEW	Whether the disciplinary determination is supported by substantial evidence; the court also reviewed alleged procedural defects, including inadequate employee assistance, hearing officer bias, and denial of the right to call witnesses.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Jeffrey Canzater-Smith v. Donald Venettozzi, as Acting Director of Special Housing and Inmate Disciplinary Programs

TOPICS

judicial review of agency action

administrative law

standard of review

appellate procedure

civil procedure

PRACTICE AREAS

administrative law

prison disciplinary proceedings

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether substantial evidence supported the determination that petitioner was guilty of the charged prison disciplinary violations.
2. Whether petitioner was prejudiced by alleged deficiencies in the assistance provided by his employee assistant.
3. Whether the hearing officer's determination was the product of bias.
4. Whether petitioner was denied the right to call witnesses.
5. Whether the hearing officer sufficiently remedied alleged disclosure deficiencies by providing redacted incident reports and logbook entries.

HOLDINGS

1. The disciplinary determination was supported by substantial evidence in the misbehavior report, documentary evidence reviewed in camera, and hearing testimony.
2. Petitioner's exculpatory claims raised credibility issues for the hearing officer and did not warrant judicial rejection of the determination.
3. Petitioner received meaningful assistance from his employee assistant and failed to demonstrate prejudice from any alleged deficiencies.
4. Petitioner failed to demonstrate that the hearing officer's determination flowed from bias.
5. Petitioner was not denied the right to call witnesses because, after the first requested witness corroborated the correction officer's testimony, petitioner voluntarily declined to call additional witnesses.

FACTUAL BACKGROUND

After refusing a direct order to remove clothing from his locker, petitioner became belligerent and shouted obscenities. When directed to move to a separate room, he swung his right elbow backward and struck a correction officer in the face. A misbehavior report charged him with multiple prison disciplinary violations, and the hearing officer found him guilty.

PROCEDURAL HISTORY

Following a tier III disciplinary hearing, petitioner was found guilty of refusing a direct order, creating a disturbance, interfering with staff, assaulting staff, making threats, and engaging in violent conduct. The determination was affirmed on administrative appeal. Petitioner then commenced a CPLR article 78 proceeding, which Supreme Court transferred to the Appellate Division, Third Department. The Appellate Division confirmed the determination and dismissed the petition.

DISPOSITION

dismissed

CASES CITED

- Matter of McCall v. Annucci, 123 AD3d 1267, 1268 (2014)
- Matter of Wright v. Fischer, 98 AD3d 759, 759 (2012)
- Matter of Young v. Prack, 142 AD3d 1226, 1226 (2016)
- Matter of Medina v. Annucci, 141 AD3d 1052, 1053 (2016)
- Matter of Lashway v. Fischer, 91 AD3d 1239, 1239 (2012), lv denied 19 NY3d 805 (2012)
- Matter of Shoga v. Annucci, 132 AD3d 1027, 1028 (2015)
- Matter of Colon v. Goord, 11 AD3d 839, 840 (2004)
- Matter of Telesford v. Annucci, 145 AD3d 1304, 1305 (2016)
- Matter of Hernandez v. Fischer, 111 AD3d 1042, 1043 (2013)
- Matter of Genyard v. Annucci, 136 AD3d 1091, 1092 (2016)
- Matter of Letizia v. Graham, 119 AD3d 1296, 1297 (2014), lv denied 24 NY3d 912 (2015)