

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D16398  
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Submitted - September 10, 2007

STEPHEN G. CRANE, J.P.  
ROBERT A. LIFSON  
EDWARD D. CARNI  
RUTH C. BALKIN, JJ.

2006-09597

DECISION &

JUDGMENT

In the Matter of Gregory Mingo, petitioner, v  
Glenn S. Goord, etc., respondent.

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Gregory Mingo, Elmira, N.Y., petitioner pro se.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Benjamin N. Gutman and  
Sasha Samberg-Champion of counsel), for respondent.

Proceeding pursuant to CPLR article 78 to review a determination of the Commissioner of the New York State Department of Correctional Services dated January 18, 2006, which confirmed a decision of a hearing officer dated October 18, 2005, made after a Tier III disciplinary hearing, finding the petitioner guilty of violating disciplinary rule 113.24 (7 NYCRR 270.2[B][14][xiv]), and imposing penalties.

ADJUDGED that the determination is confirmed, the petition is denied, and the proceeding is dismissed on the merits, without costs or disbursements.

The hearing officer's determination that the petitioner used a controlled substance, thus violating disciplinary rule 113.24 (7 NYCRR 270.2 [B][14][xiv]) was supported by substantial evidence (*see Matter of Smythe v Goord*, 41 AD3d 608, 609). During the hearing held on September 30, 2005, and October 16, 17, and 18, 2005, the hearing officer considered, inter alia, a misbehavior report and two urinalysis reports which indicated that the petitioner tested positive for opiates and cannabinoids (*id*; *see Matter of Foster v Coughlin*, 76 NY2d 964, 966; *Matter of Lahey v Kelly*, 71 NY2d 135, 138; *see also Matter of Thompson v Goord*, 37 AD3d 914), as well as the testimony of two corrections officers, one of whom had tested the urine sample provided by the petitioner.

October 2, 2007

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MATTER OF MINGO v GOORD

The petitioner's remaining contentions are without merit.

CRANE, J.P., LIFSON, CARNI and BALKIN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer  
Clerk of the Court