

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

D28040  
Y/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - May 20, 2010

A. GAIL PRUDENTI, P.J.  
PETER B. SKELOS  
ANITA R. FLORIO  
SANDRA L. SGROI, JJ.

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2009-04669

DECISION & JUDGMENT

In the Matter of Vance Maxwell, petitioner, v  
Brian Fischer, etc., respondent.

(Index No. 08-18032)

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Vance Maxwell, Ossining, N.Y., petitioner pro se.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Benjamin N. Gutman and  
Sudarsana Srinivasan of counsel), for respondent.

Proceeding pursuant to CPLR article 78 to review a determination of Brian Fischer, as Commissioner of the New York State Department of Correctional Services, dated June 20, 2008, which adopted the recommendation of a hearing officer dated April 23, 2008, made after a Tier III disciplinary hearing, finding the petitioner guilty of the charge of possession of contraband.

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

Contrary to the petitioner's contention, the misbehavior report provided substantial evidence to support the hearing officer's determination which found him guilty of possessing contraband in violation of 7 NYCRR 270.2(B)(14)(xiii) (*see Matter of Adamson v Barto*, 37 AD3d 597, 598; *see also Matter of Lawrence v Edwards*, 261 AD2d 404; *Matter of Nelson v Coughlin*, 209 AD2d 621).

June 29, 2010

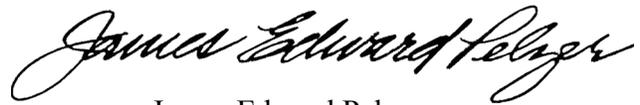
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MATTER OF MAXWELL v FISCHER

The petitioner's remaining contention is without merit.

PRUDENTI, P.J., SKELOS, FLORIO and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court