

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

D32393  
W/kmb

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

Submitted - September 8, 2011

REINALDO E. RIVERA, J.P.  
ANITA R. FLORIO  
JOHN M. LEVENTHAL  
SHERI S. ROMAN, JJ.

2009-08046

DECISION & JUDGMENT

In the Matter of Richard Salvatierra, appellant,  
v Captain Weeden, respondent.

(Index No. 12441/08)

Richard Salvatierra, Beacon, N.Y., appellant pro se.

Eric T. Schneiderman, Attorney General, New York, N.Y. (Michael S. Belohlavek  
and Ann P. Zybert of counsel), for respondent.

Proceeding pursuant to CPLR article 78 to review a determination of Norman R. Bezio, the Director of Special Housing Unit, New York State Department of Correctional Services, dated July 28, 2008, which confirmed a determination of a hearing officer dated May 29, 2008, made after a Tier III disciplinary hearing, finding the petitioner guilty of violating prison disciplinary rule 113.27 (*see* 7 NYCRR 270.2[B][14][xvii]), and imposing a penalty.

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, the hearing testimony, and the documentation presented at the hearing constituted substantial evidence of his guilt (*see Matter of Mills v Fischer*, 85 AD3d 1033, 1033; *Matter of Anekwe v Ercole*, 74 AD3d 1335; *Matter of Lozada v Selsky*, 306 AD2d 413).

The hearing officer properly, in effect, denied the petitioner's request to submit sections of a law library handbook into evidence at the hearing (*see Matter of Lopez v Healy*, 39

October 4, 2011

Page 1.

MATTER OF SALVATIERRA v WEEDEN

AD3d 978, 978-979).

Contrary to the petitioner's contention, the misbehavior report contained the necessary specificity to apprise him of the charges against him so as to enable him to prepare an adequate defense (*see Matter of Mills v Fischer*, 85 AD3d at 1033; *Matter of Anekwe v Ercole*, 74 AD3d 1335).

The petitioner's remaining contentions are either not properly before this Court or without merit.

RIVERA, J.P., FLORIO, LEVENTHAL and ROMAN, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court