

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

D32552
G/kmb

_____AD3d_____

Submitted - September 20, 2011

WILLIAM F. MASTRO, J.P.
ANITA R. FLORIO
RANDALL T. ENG
SANDRA L. SGROI, JJ.

2010-05002

DECISION & JUDGMENT

In the Matter of Jaythan Kendrick, petitioner,
v New York State Department of Correctional
Service, etc., et al., respondents.

(Index No. 7944/09)

Jaythan Kendrick, Stormville, N.Y., petitioner pro se.

Eric T. Schneiderman, Attorney General, New York, N.Y. (Michael S. Belohlavek
and Richard O. Jackson of counsel), for respondents.

Proceeding pursuant to CPLR article 78 to review so much of a determination of the New York State Department of Correctional Service dated June 3, 2009, as affirmed so much of a determination of a hearing officer dated March 11, 2009, made after a Tier III disciplinary hearing, as found that the petitioner had violated, inter alia, 7 NYCRR 270.2(B)(14)(iv) by possessing an unauthorized type of medication, and imposed penalties.

ADJUDGED that the determination is confirmed insofar as reviewed, 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 testimony adduced at the Tier III disciplinary hearing, and the "Contraband Drug Testing Directive" regarding narcotics identification kits and the testing procedures for contraband provided substantial evidence to support the hearing officer's determination that the petitioner possessed an unauthorized type of medication in violation of 7 NYCRR 270.2(B)(14)(iv) (*see Matter of Mills v Fischer*, 85 AD3d 1033; *Matter*

October 18, 2011

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of Maxwell v Fischer, 74 AD3d 1342, 1343; *Matter of Brown v Selsky*, 38 AD3d 657; *Matter of Rincon v Selsky*, 28 AD3d 565).

The petitioner's remaining contentions are without merit.

MASTRO, J.P., FLORIO, ENG and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court