

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

D36222  
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Submitted - September 7, 2012

DANIEL D. ANGIOLILLO, J.P.  
ANITA R. FLORIO  
ARIEL E. BELEN  
SHERI S. ROMAN, JJ.

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2011-09413

DECISION & JUDGMENT

In the Matter of Onel Ojeda, petitioner, v D. Venettozzi,  
etc., respondent.

(Index No. 483/11)

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Onel Ojeda, Ossining, N.Y., petitioner pro se.

Eric T. Schneiderman, Attorney General, New York, N.Y. (Richard Dearing and  
Won S. Shin of counsel), for respondent.

Proceeding pursuant to CPLR article 78 to review a determination of Donald Venettozzi, the Acting Director of the Special Housing Unit at Sing Sing Correctional Facility, dated March 28, 2011, which confirmed a determination of a hearing officer dated January 11, 2011, made after a Tier III superintendent's disciplinary hearing, finding the petitioner guilty of the charge of violating Prison Disciplinary Rule 113.10 (7 NYCRR 270.2[B][14][i]).

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

In reaching his determination that the petitioner violated Prison Disciplinary Rule 113.10 (*see* 7 NYCRR 270.2[B][14][i]) by possessing a weapon, the respondent relied upon a misbehavior report as well as the testimony of the correction officer who discovered the weapon following a search of the petitioner's cell, and the testimony of the petitioner himself. Contrary to the petitioner's contention, this constituted substantial evidence sufficient to support the determination that the petitioner was guilty of the charge sustained against him (*see Matter of Abdur-Raheem v Mann*, 85 NY2d 113, 123; *Matter of Reyes v Leclair*, 49 AD3d 884). Any

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credibility issues were resolved by the hearing officer, and we find no basis upon which to disturb the hearing officer's determination (*see Matter of Mills v Fischer*, 85 AD3d 1033; *Matter of Reyes v Leclair*, 49 AD3d at 885).

The petitioner's remaining contentions are without merit.

ANGIOLILLO, J.P., FLORIO, BELEN and ROMAN, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court