

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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TP 12-01865

PRESENT: SMITH, J.P., FAHEY, SCONIERS, VALENTINO, AND WHALEN, JJ.

IN THE MATTER OF SENECA PATTERSON, PETITIONER,

V

MEMORANDUM AND ORDER

BRIAN FISCHER, COMMISSIONER, NEW YORK STATE
DEPARTMENT OF CORRECTIONS AND COMMUNITY
SUPERVISION, RESPONDENT.

WYOMING COUNTY-ATTICA LEGAL AID BUREAU, WARSAW (ADAM W. KOCH OF
COUNSEL), FOR PETITIONER.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (JONATHAN D. HITSOUS OF
COUNSEL), FOR RESPONDENT.

Proceeding pursuant to CPLR article 78 (transferred to the Appellate Division of the Supreme Court in the Fourth Judicial Department by order of the Supreme Court, Wyoming County [Mark H. Dadd, A.J.], entered October 3, 2012) to review a determination of respondent. The determination revoked the postrelease supervision of petitioner.

It is hereby ORDERED that the determination is unanimously confirmed without costs and the petition is dismissed.

Memorandum: Petitioner commenced this proceeding pursuant to CPLR article 78 seeking to annul the determination revoking his period of postrelease supervision and imposing a time assessment of 16 months. " '[A] determination to revoke parole [or postrelease supervision] will be confirmed if the procedural requirements were followed and there is evidence which, if credited, would support such determination' " (*Matter of Graham v Dennison*, 46 AD3d 1467, 1467 [internal quotation marks omitted]; see *Matter of Mosley v Dennison*, 30 AD3d 975, 976, *lv denied* 7 NY3d 712). Contrary to petitioner's contention, "the testimony of petitioner's parole officer at the hearing before the [Administrative Law Judge] provides substantial evidence to support the determination with respect to the [eight] charges concerning the violations by petitioner of his curfew [and domestic violence conditions]" (*Mosley*, 30 AD3d at 976; see *Graham*, 46 AD3d at 1467; see generally *People ex rel. Vega v Smith*, 66 NY2d 130, 139).

Entered: March 15, 2013

Frances E. Cafarell
Clerk of the Court