

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

D57681
L/htr

_____AD3d_____

Argued - September 28, 2018

REINALDO E. RIVERA, J.P.
LEONARD B. AUSTIN
COLLEEN D. DUFFY
BETSY BARROS, JJ.

2016-08334

DECISION & JUDGMENT

In the Matter of Roger Cole, petitioner, v Thomas
Griffin, etc., respondent.

(Index No. 234/16)

Roger Cole, Wallkill, NY, petitioner pro se.

Proceeding pursuant to CPLR article 78 to review a determination of the Superintendent of the Green Haven Correctional Facility dated December 29, 2015. The determination affirmed a determination of a hearing officer dated December 24, 2015, made after a tier II disciplinary hearing, finding that the petitioner was guilty of violating Institutional Rules of Conduct rules 114.10 and 116.13 (7 NYCRR 270.2[B][15][i]; [17][iv]), and imposing a penalty.

ADJUDGED that the determination dated December 29, 2015, is confirmed, the petition is denied, and the proceeding is dismissed on the merits, without costs or disbursements.

Following a tier II disciplinary hearing, a hearing officer determined that the petitioner, an inmate in the custody of the New York State Department of Corrections and Community Supervision, was guilty of violating Institutional Rules of Conduct rules 114.10 and 116.13 (7 NYCRR 270.2[B][15][i]; [17][iv]). The petitioner appealed to the respondent, who affirmed the hearing officer's determination. Subsequently, the petitioner commenced this proceeding pursuant to CPLR article 78 to review the respondent's determination.

The misbehavior report and the hearing testimony provided substantial evidence to support the hearing officer's determination that the petitioner violated the subject prison disciplinary rules (*see Matter of Burgess v Bellnier*, 138 AD3d 989, 990; *Matter of Urena v Annucci*, 134 AD3d

December 19, 2018

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727, 728-729; *Matter of Berkoviz v Lee*, 102 AD3d 866, 867).

The petitioner's remaining contentions are without merit.

RIVERA, J.P., AUSTIN, DUFFY and BARROS, JJ., concur.

ENTER: 
Aprilanne Agostino
Clerk of the Court