

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

574

TP 22-00179

PRESENT: SMITH, J.P., CENTRA, PERADOTTO, CURRAN, AND WINSLOW, JJ.

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IN THE MATTER OF LEROY JOHNSON, PETITIONER,

V

MEMORANDUM AND ORDER

STEWART T. ECKERT, SUPERINTENDENT, WENDE  
CORRECTIONAL FACILITY, RESPONDENT.

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LEROY JOHNSON, PETITIONER PRO SE.

LETITIA JAMES, ATTORNEY GENERAL, ALBANY (KATE H. NEPVEU OF COUNSEL),  
FOR RESPONDENT.

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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, Erie County [M. William Boller, A.J.], entered November 16, 2021) to review a determination of respondent. The determination found after a tier II hearing that petitioner had violated various inmate rules.

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 a determination, following a tier II disciplinary hearing, that he violated certain inmate rules. Contrary to petitioner's contention, the misbehavior reports constitute substantial evidence supporting the determination that he violated the subject inmate rules (*see Matter of Perez v Wilmot*, 67 NY2d 615, 616-617 [1986]; *Matter of Murphy v Graham*, 98 AD3d 833, 834-835 [4th Dept 2012]). Petitioner's testimony merely presented credibility issues for the Hearing Officer to resolve (*see Matter of Foster v Coughlin*, 76 NY2d 964, 966 [1990]).

Entered: July 8, 2022

Ann Dillon Flynn  
Clerk of the Court