

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Application of
BRYAN MEDINA, #13-A-1826

Petitioner,

v.

Index No. 2014-0201

ANTHONY J. ANNUCCI, Acting Commissioner of the
New York State Department of Correctional Services and
Community Supervision,

Respondent.

DECISION & ORDER

Michalski, J.

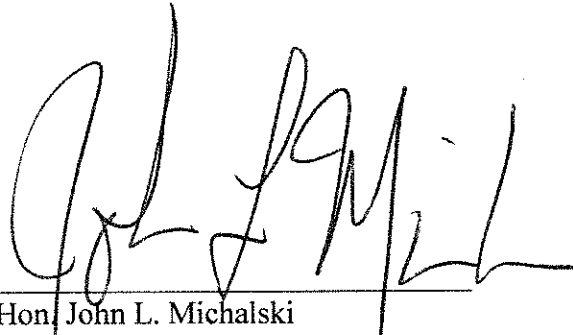
Petitioner brought this Civil Practice Law and Rules (CPLR) Article 78 special proceeding seeking an Order, *inter alia*, setting aside Respondent's determination subsequent to a Tier III disciplinary hearing, and Respondent's subsequent imposition of certain sanctions. Specifically, Petitioner maintains that Respondent acted arbitrarily and capriciously in denying him assistance in preparing for and conducting the disciplinary hearing, and in continuing and concluding that hearing without Petitioner's participation after he was ordered returned to his cell upon requesting such assistance.

Now, upon review of all the pleadings, and upon hearing oral argument, we find that Respondent acted arbitrarily and capriciously as alleged above. Accordingly, the request for Article 78 relief is *granted*.

FILED
2014 DEC 19 PM 12:14
E. COUNTY CLERK

WHEREFORE, it is hereby ORDERED that Petitioner is to be given a *de novo* hearing with the aid of an assistant within thirty days of the date of entry.

Dated: Buffalo, New York
December 17, 2014



Hon. John L. Michalski

GRANTED

DEC 18 2014

BY: 
LAURA RODGERS
COURT CLERK