

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

D12216
E/cb

_____AD3d_____

Argued - September 5, 2006

HOWARD MILLER, J.P.
DAVID S. RITTER
ROBERT A. SPOLZINO
MARK C. DILLON, JJ.

2005-09124

DECISION & JUDGMENT

In the Matter of Indrakumar Goohya, etc., petitioner,
v Mary Ann Walsh-Tozer, etc., respondent.

Wood & Scher, White Plains, N.Y. (William L. Wood, Jr., of counsel), for petitioner.

Patricia Zugibe, County Attorney, New City, N.Y. (Emily R. Fabrizio of counsel), for respondent.

Proceeding pursuant to CPLR Article 78 to review a determination of the respondent, Mary Ann Walsh-Tozer, as Commissioner of the Rockland County Department of Mental Health, dated June 3, 2004, which rejected the recommendation of a Hearing Officer, made after a hearing, found that the petitioner was guilty of patient abuse, professional misconduct, and sexual harassment, and terminated the petitioner from his employment with the Rockland County Department of Mental Health.

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

Contrary to the petitioner's contention, the respondent's determination is supported by substantial evidence (*see 300 Gramatan Ave. Assoc. v State Div. of Human Rights*, 45 NY2d 176; *Matter of Maher v Cade*, 15 AD3d 489). Further, the penalty of dismissal is not so disproportionate to the offenses as to be shocking to one's sense of fairness (*see Matter of Pell v Board of Educ.*, 34 NY2d 222; *Matter of Maher v Cade*, *supra*).

October 17, 2006

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The petitioner's remaining contentions are either not properly before the court or without merit.

MILLER, J.P., RITTER, SPOLZINO and DILLON, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court