

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

D12727
T/mv

_____AD3d_____

Argued - October 10, 2006

THOMAS A. ADAMS, J.P.
REINALDO E. RIVERA
PETER B. SKELOS
ROBERT A. LIFSON, JJ.

2005-10896

DECISION & ORDER

In the Matter of James Minally, respondent,
v Joan B. Carey, etc., appellant.

(Index No. 8390/05)

Michael Colodner, New York, N.Y. (John Eiseman and Pedro Morales of counsel),
for appellant.

Edward M. Rappaport, Brooklyn, N.Y. (Alan J. Firestone of counsel), for respondent.

In a proceeding pursuant to CPLR article 78 to review a determination of Joan B. Carey, Deputy Chief Administrative Judge for the New York City courts, dated January 6, 2005, which terminated the petitioner's employment as a Senior Court Officer in the Unified Court System, Joan B. Carey appeals from so much of a judgment of the Supreme Court, Kings County (Martin, J.), dated August 3, 2005, as granted that branch of the petition which was for a name-clearing hearing.

ORDERED that the judgment is reversed insofar as appealed from, on the law, with costs, that branch of the petition which was for a name-clearing hearing is denied, the determination is confirmed, and the proceeding is dismissed on the merits.

The parties' stipulations of settlement of a specification of misconduct provided that the petitioner was subject to random testing for controlled substances "the results of [which] shall be deemed conclusive upon the parties." Pursuant to the terms of the stipulations, the petitioner was not entitled to a name-clearing hearing to challenge the results of a random test which was positive

November 28, 2006

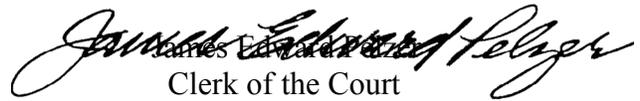
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for a controlled substance (*see Matter of Ramsey v City of New York*, 8 AD3d 392).

ADAMS, J.P., RIVERA, SKELOS and LIFSON, JJ., concur.

ENTER:


James Edward Kelly
Clerk of the Court