

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

D13537
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_____AD3d_____

Argued - December 14, 2006

A. GAIL PRUDENTI, P.J.
WILLIAM F. MASTRO
FRED T. SANTUCCI
MARK C. DILLON, JJ.

2006-00286

DECISION & JUDGMENT

In the Matter of Joseph Rooney, petitioner, v
Deer Park Fire Department, et al., respondents.

(Index No. 06203/05)

Misiano Shulman Capetola & Kessler, LLP, Melville, N.Y. (Sal Puccio and James F. Misiano of counsel), for petitioner.

Law Offices of Stanley E. Orzechowski, P.C., St. James, N.Y., for respondents.

Proceeding pursuant to CPLR article 78 to review a determination of the respondent Board of Fire Commissioners of the Deer Park Fire District No. 14, dated March 11, 2005, which, after a hearing, suspended the petitioner from the Deer Park Fire Department for a period of one year.

ADJUDGED that the determination is confirmed, the petition is denied, and the proceeding is dismissed on the merits, with costs.

Judicial review of an administrative determination made after a hearing required by law is limited to whether that determination is supported by substantial evidence (*see 300 Gramatan Ave. Assoc. v State Div. of Human Rights*, 45 NY2d 176, 179). Here, the petitioner's suspension for misconduct and insubordination was supported by substantial evidence at the hearing (*see Matter of Pell v Board of Educ.*, 34 NY2d 222, 231; *Matter of Szyborski [McIntyre]*, 31 AD2d 309, 310).

January 23, 2007

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The petitioner's remaining contention is without merit.

PRUDENTI, P.J., MASTRO, SANTUCCI and DILLON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court