

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

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Submitted - December 11, 2006

GABRIEL M. KRAUSMAN, J.P.
ANITA R. FLORIO
ROBERT J. LUNN
JOSEPH COVELLO, JJ.

2006-00362

DECISION & ORDER

In the Matter of Darly Jeanty, appellant, v New York
State Department of Correctional Services, et al.,
respondents.

(Index No. 2641/05)

Jacobowitz & Gubits, LLP, Walden, N.Y. (Joseph J. Ranni of counsel), for appellant.

Andrew M. Cuomo, Attorney-General, New York, N.Y. (Michael S. Belohlavek and
Carol Fischer of counsel), for respondents.

In a proceeding pursuant to Executive Law § 298 to review a determination of the New York State Division of Human Rights, dated March 30, 2005, which, after a hearing, found that the New York State Department of Correctional Services and the Green Haven Correctional Facility had not unlawfully discriminated against the petitioner on the bases of race and national origin, the petitioner appeals from an order and judgment (one paper) of the Supreme Court, Dutchess County (Brands, J.), dated December 1, 2005, which granted that branch of the respondents' motion which was to dismiss the petition for failure to join a necessary party and, in effect, denied the petition and dismissed the proceeding.

ORDERED that the order and judgment is affirmed, with costs.

The Supreme Court correctly granted that branch of the respondents' motion which was to dismiss the petition for failure to join a necessary party. The petitioner failed to join as a party

January 23, 2007

Page 1.

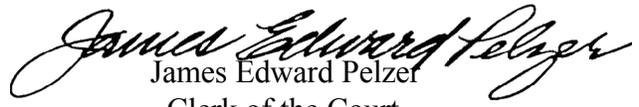
MATTER OF JEANTY v NEW YORK STATE
DEPARTMENT OF CORRECTIONAL SERVICES

respondent the New York State Division of Human Rights, which issued the determination challenged herein (*see* CPLR 1001[a]; Executive Law § 298; 22 NYCRR 202.57[a]; *Matter of Boston Culinary Group, Inc. v New York State Olympic Regional Dev. Auth.*, 18 AD3d 1103; *Matter of Lodge v D'Aliso*, 2 AD3d 525; *Matter of Ogbunugafor v New York State Educ. Dept.*, 279 AD2d 738, 739-740).

The petitioner's remaining contentions are without merit.

KRAUSMAN, J.P., FLORIO, LUNN and COVELLO, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court