

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

D22098
W/nl

_____AD3d_____

Argued - January 20, 2009

PETER B. SKELOS, J.P.
FRED T. SANTUCCI
RUTH C. BALKIN
RANDALL T. ENG, JJ.

2008-04307

DECISION & ORDER

In the Matter of Dorothy H. Bonanno, appellant,
v Nassau County Civil Service Commission,
respondent.

(Index No. 22549/07)

Thomas A. Williams, Valley Stream, N.Y., for appellant.

Lorna B. Goodman, County Attorney, Mineola, N.Y. (Rosanne Harvey of counsel),
for respondent.

In a proceeding, inter alia, pursuant to CPLR article 78 to review a determination of the Nassau County Civil Service Commission dated November 1, 2007, terminating the petitioner's employment as a probationary employee, the petitioner appeals from a judgment of the Supreme Court, Nassau County (Davis, J.), dated April 8, 2008, which denied the petition and dismissed the proceeding.

ORDERED that the judgment is affirmed, with costs.

“A probationary employee may be terminated without a hearing and without a statement of reasons in the absence of a showing that the termination was for a constitutionally impermissible purpose, in bad faith, or in violation of statutory or decisional law” (*Matter of Iannuzzi v Town of Brookhaven*, 258 AD2d 651, 651). “[A] petitioner has the burden of demonstrating bad faith by competent evidence, not speculation” (*Matter of Negron v Jackson*, 273 AD2d 241, 242).

February 10, 2009

Page 1.

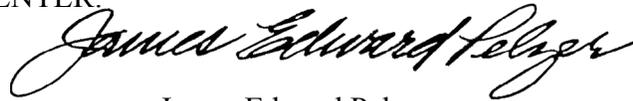
MATTER OF BONANNO v NASSAU COUNTY CIVIL
SERVICE COMMISSION

Here, contrary to the petitioner's contention, the respondent's determination to discharge her was rationally based and thus was neither arbitrary nor capricious. Nor did the petitioner demonstrate that the dismissal was carried out in bad faith or illegally accomplished, and did not raise a "material issue of fact" with respect to that issue so as to warrant a hearing (*Matter of Johnson v Katz*, 68 NY2d 649, 656; see *Matter of Abbondandolo v Edwards*, 174 AD2d 737). Accordingly, the Supreme Court properly denied the petition and dismissed the proceeding.

The petitioner's remaining contentions are without merit.

SKELOS, J.P., SANTUCCI, BALKIN and ENG, 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