

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

D25873
C/prt

_____AD3d_____

Argued - December 15, 2009

STEVEN W. FISHER, J.P.
HOWARD MILLER
RANDALL T. ENG
L. PRISCILLA HALL, JJ.

2008-10749
2009-03600

DECISION & ORDER

In the Matter of William M. Billups, appellant,
v Board of Directors of Huntington Community
First Aid Squad, respondent.

(Index No. 32003/07)

John J. Broderick, Syosset, N.Y. (James J. Cruise, Jr., of counsel), for appellant.

Glynn, Mercep and Purcell, LLP, Stony Brook, N.Y. (Timothy B. Glynn of counsel),
for respondent.

In a proceeding pursuant to CPLR article 78 to review a determination of the Board of Directors of the Huntington Community First Aid Squad suspending the petitioner for 60 days and permanently removing him as a “crew leader,” the petitioner appeals from (1) a judgment of the Supreme Court, Suffolk County (Pines, J.), dated September 11, 2008, which, denied the amended petition and dismissed the proceeding, and (2) an order of the same court dated March 6, 2009, which denied the petitioner’s motion for leave to renew.

ORDERED that the judgment and the order are affirmed, with one bill of costs.

In the amended petition, the petitioner, in effect, admitted that on May 9, 2007, he violated a prior oral directive given to him by First Deputy Chief Orr of the Huntington Community First Aid Squad (hereinafter the squad) on April 18, 2007, temporarily suspending him from acting as a “crew chief.” As a consequence of the petitioner’s actions on May 9, 2007, the petitioner was

January 26, 2010

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charged by letter dated May 18, 2007, inter alia, with insubordination. After a hearing, the respondent made a determination to suspend the petitioner for 60 days and permanently remove him as a “crew chief.” The determination had a rational basis, was neither arbitrary nor capricious, and was not affected by an error of law (*see Matter of Scherbyn v Wayne-Finger Lakes Bd. of Coop. Educ. Servs.*, 77 NY2d 753, 757-758; *Matter of Gundrum v Ambach*, 55 NY2d 872, 873). Accordingly, the Supreme Court properly, denied the amended petition and dismissed the proceeding.

The petitioner’s remaining contentions are either without merit or not properly before this Court.

FISHER, J.P., MILLER, ENG and HALL, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court