

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

D28340
G/prt

_____AD3d_____

Argued - August 17, 2010

PETER B. SKELOS, J.P.
JOSEPH COVELLO
RUTH C. BALKIN
LEONARD B. AUSTIN
SANDRA L. SGROI, JJ.

2010-07868

DECISION & ORDER

In the Matter of Jerwaine I. Gorman, appellant, v
Board of Elections in the City of New York, et al.,
respondents.

(Index No. 19436/10)

In a proceeding pursuant to Election Law § 16-102, inter alia, to validate a petition designating Jerwaine I. Gorman as a candidate in a primary election to be held on September 14, 2010, for the Democratic Party as a candidate for the party position of Male Member of the New York State Democratic Committee from the 29th Assembly District, Jerwaine I. Gorman appeals from a final order of the Supreme Court, Queens County (Strauss, J.), entered August 9, 2010, which denied the petition and, in effect, dismissed the proceeding.

ORDERED that the final order is affirmed, without costs or disbursements.

“The method of service provided for in an order to show cause is jurisdictional in nature and must be strictly complied with” (*Matter of Hennessey v DiCarlo*, 21 AD3d 505, 505; see *Matter of Del Villar v Vekiarelis*, 59 AD3d 642, 643; *Matter of Master v Pohanka*, 43 AD3d 478, 480). The Supreme Court properly determined that the petitioner failed to establish that he timely complied with the service requirements set forth in the order to show cause. On the record before us, it appears that the petitioner failed to timely submit to the Supreme Court an affidavit of service indicating compliance with the service provision of the order to show cause with respect to the

objector. Therefore, the petition was properly denied and the proceeding was, in effect, properly dismissed.

SKELOS, J.P., COVELLO, BALKIN, AUSTIN and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer
Clerk of the Court