

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

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_____AD3d_____

Submitted - February 3, 2011

DANIEL D. ANGIOLILLO, J.P.
ANITA R. FLORIO
ARIEL E. BELEN
LEONARD B. AUSTIN, JJ.

2010-04118

DECISION & JUDGMENT

In the Matter of John L. Driscoll, Jr., petitioner, v
Guss Hayes, etc., et al., respondents.

(Index No. 30151/09)

Kevin P. Sheerin, Mineola, N.Y., for petitioner.

Mark W. Blanchard, Corporation Counsel, Yonkers, N.Y. (Kevin D. Crozier of
counsel), for respondents.

Proceeding pursuant to CPLR article 78 to review a determination of the City of Yonkers Civil Service Commission dated September 1, 2009, which, after a hearing, disqualified the petitioner as an eligible candidate for placement on a Certified List for Firefighter in the City of Yonkers.

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 is limited to whether the determination is supported by substantial evidence (*see* CPLR 7803[4]; 300 *Gramatan Ave. Assoc. v State Div. of Human Rights*, 45 NY2d 176, 181-182). Here, the City of Yonkers Civil Service Commission's disqualification of the petitioner as an eligible candidate for placement on a Certified List for Firefighter in the City of Yonkers, on the ground of nonresidency, was supported by substantial evidence, and its determination must therefore not be disturbed (*see Matter of*

February 22, 2011

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MATTER OF DRISCOLL v HAYES

Schindlar v Incorporated Vil. of Lloyd Harbor, 261 AD2d 626; *Matter of Butler v Nassau County Civ. Serv. Commn.*, 175 AD2d 159; *Matter of Quinn v Simmons*, 152 AD2d 579; *Matter of Magrella v Nassau County Civ. Serv. Commn.*, 124 AD2d 660).

ANGIOLILLO, J.P., FLORIO, BELEN and AUSTIN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court