

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

D30546  
O/kmb

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Submitted - March 9, 2011

MARK C. DILLON, J.P.  
JOHN M. LEVENTHAL  
ARIEL E. BELEN  
LEONARD B. AUSTIN  
JEFFREY A. COHEN, JJ.

2010-05296

DECISION & ORDER

In the Matter of Richard Tinyes, appellant, v  
State of New York, respondent.

(Claim No. 69239)

O'Connor, O'Connor, Hintz & Deveney, LLP, Melville, N.Y. (Kevin J. Murtagh of counsel), for appellant.

Eric T. Schneiderman, Attorney General, New York, N.Y. (Peter H. Schiff and Robert M. Goldfarb of counsel), for respondent.

In a proceeding pursuant to Court of Claims Act § 10(6) for leave to file a late claim, the claimant appeals from an order of the Court of Claims (Waldon, J.), dated September 1, 2005, which denied his petition.

ORDERED that the order is affirmed, with costs.

The Court of Claims providently exercised its discretion in denying the claimant's petition for leave to file a late claim. Upon weighing the statutory factors set forth in Court of Claims Act § 10(6) (*see Edens v State of New York*, 259 AD2d 729, 730; *Holly v State of New York*, 191 AD2d 678), the Court of Claims properly determined that the claimant failed to come forth with a reasonable excuse for his failure to file a timely claim and failed to demonstrate that his claim was potentially meritorious.

DILLON, J.P., LEVENTHAL, BELEN, AUSTIN and COHEN, JJ., concur.

ENTER:

  
Matthew G. Kiernan

March 22, 2011

MATTER OF TINYES v STATE OF NEW YORK

Clerk of the Court

March 22, 2011

MATTER OF TINYES v STATE OF NEW YORK