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

D31351
Y/prt

_____AD3d_____ Argued - April 21, 2011

DANIEL D. ANGIOLILLO, J.P.
THOMAS A. DICKERSON
ARIEL E. BELEN
SHERI S. ROMAN, JJ.

2011-00831 DECISION & ORDER

In the Matter of Paul Kosowski, et al., appellants, v
Daniel F. Donovan, Jr., et al., respondents.

(Index No. 18962/10)

Steven G. Legum, Mineola, N.Y., for appellants.

Bee Ready Fishbein Hatter & Donovan, LLP, Mineola, N.Y. (Peter A. Bee and Stephen L. Martir of counsel), for respondents Daniel F. Donovan, Jr., Maryann T. Hughes, Christopher M. Mistron, Marty Blessinger, John J. Fanning, Daniel J. Lang, Vincent A. Ciccolella, Kevin J. Crean, Michael Landman, Michael R. Long, and Paul Atanasio.

In a proceeding, inter alia, to invalidate the election of officers by the County Committee of the Conservative Party of Nassau County on the ground that the committee was not constituted in compliance with Election Law § 2-104(3), the petitioners appeal from a final order of the Supreme Court, Nassau County (Adams, J.), entered January 18, 2011, which denied the petition and dismissed the proceeding.

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

While we affirm the final order appealed from, we do so on a ground other than that relied upon by the Supreme Court. This proceeding, inter alia, to invalidate the election of officers by the County Committee of the Conservative Party of Nassau County, was subject to the 10-day period of limitations set forth in Election Law § 16-102(2). Since the proceeding was commenced after that period expired, it was untimely (*see Matter of Sayegh v Castaldo,* 287 AD2d 639; *Delanoy*

v Faction, 287 AD2d 592; *Matter of Essenberg v Reape,* 272 AD2d 544; *Matter of Stabile v DeFronzo,* 231 AD2d 577).

ANGIOLILLO, J.P., DICKERSON, BELEN and ROMAN, JJ., concur.

ENTER:

Matthew G. Kiernan
Clerk of the Court