

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

D32995
H/kmb

_____AD3d_____

Submitted - November 9, 2011

WILLIAM F. MASTRO, J.P.
RUTH C. BALKIN
CHERYL E. CHAMBERS
SANDRA L. SGROI, JJ.

2010-11394

DECISION & ORDER

In the Matter of Charles Doersam, appellant,
v County of Suffolk, respondent.

(Index No. 27399/10)

Koehler & Isaacs LLP, New York, N.Y. (Andrea Koutsoudakis of counsel), for appellant.

Christine Malafi, County Attorney, Central Islip, N.Y. (Keith R. McHugh of counsel), for respondent.

In a proceeding pursuant to General Municipal Law § 50-e(5) for leave to serve a late notice of claim, the petitioner appeals from an order of the Supreme Court, Suffolk County (Baisley, Jr., J.), dated August 18, 2010, which denied the petition.

ORDERED that the order is affirmed, with costs.

The Supreme Court did not improvidently exercise its discretion in denying the petition for leave to serve a late notice of claim. The petitioner failed to provide a reasonable excuse for his failure to serve a timely notice of claim (*see Matter of Felice v Eastport/South Manor Cent. School Dist.*, 50 AD3d 138, 147). Moreover, the evidence submitted by the petitioner along with his petition failed to establish that the County of Suffolk had actual knowledge of the essential facts constituting his claims within 90 days following their accrual or a reasonable time thereafter (*see Williams v Nassau County Med. Ctr.*, 6 NY3d 531, 536; *Matter of Bush v City of New York*, 76 AD3d 628, 629; *Matter of Charles v City of New York*, 67 AD3d 793). Finally, the petitioner failed to establish that the delay in serving a notice of claim would not substantially prejudice the County

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(see *Williams v Nassau County Med. Ctr.*, 6 NY3d at 539; *Matter of Bush v City of New York*, 76 AD3d at 629; *Matter of Felice v Eastport/South Manor Cent. School Dist.*, 50 AD3d at 152-153).

MASTRO, J.P., BALKIN, CHAMBERS and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court