

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

D33944
W/kmb

_____AD3d_____

Argued - January 27, 2012

RUTH C. BALKIN, J.P.
THOMAS A. DICKERSON
ARIEL E. BELEN
JEFFREY A. COHEN, JJ.

2011-10734

DECISION & ORDER

In the Matter of Philip Ragusa, etc., petitioner-respondent, v Thomas V. Ognibene, et al., appellants, et al., respondents.

(Index No. 22796/11)

In a proceeding pursuant to Election Law § 16-102, inter alia, to invalidate a certificate of election filed with the Board of Elections in the City of New York electing the appellants as officers of the Republican Party County Committee for the County of Queens, State of New York, Thomas V. Ognibene, Janice E. Bar, and Bart J. Haggerty appeal from an order of the Supreme Court, Queens County (Flug, J.), entered October 31, 2011, which, among other things, in effect, granted that branch of the petitioner's motion which was, in effect, to amend the caption of the proceeding to reflect the joinder of certain additional respondents.

ORDERED that the appeal is dismissed, without costs or disbursements.

The appeal from the order must be dismissed, as the right of direct appeal therefrom terminated with the entry of a final order in the proceeding (*see Matter of Aho*, 39 NY2d 241, 248; *Matter of Myers v Baisley*, 65 AD3d 649, 649-650, *affd* 13 NY3d 727). The issues raised on the appeal from the order are brought up for review and have been considered on the appeal from that final order (*see CPLR 5501[a][1]*; *Matter of Ragusa v Ognibene*, _____AD3d_____ [Appellate Division Docket No. 2011-10735, decided herewith]).

BALKIN, J.P., DICKERSON, BELEN and COHEN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

February 7, 2012

MATTER OF RAGUSA v OGNIBENE