

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

D34210
C/nl

_____AD3d_____

Argued - February 14, 2012

MARK C. DILLON, J.P.
DANIEL D. ANGIOLILLO
ANITA R. FLORIO
JEFFREY A. COHEN, JJ.

2010-10925

DECISION & ORDER

In the Matter of Carl Coleman, et al., appellants,
v Patricia Prendergast, etc., et al., respondents.

(Index No. 1287/10)

Maureen McNamara, West Haverstraw, N.Y., for appellants.

Patricia Zugibe, County Attorney, New City, N.Y. (Jeffrey J. Fortunato of counsel),
for respondents.

In a proceeding pursuant to CPLR article 78, in effect, to review certain job title standards, the petitioners appeal from an order and judgment (one paper) of the Supreme Court, Rockland County (Berliner, J.), dated September 20, 2010, which granted that branch of the respondents' motion which was to dismiss the proceeding as time-barred, and dismissed the proceeding.

ORDERED that the order and judgment is affirmed, with costs.

A CPLR article 78 proceeding must be commenced "within four months after the determination to be reviewed becomes final and binding upon the petitioner" (CPLR 217[1]). The petition stated that the petitioners received correspondence in December 2008 that the qualifications for their employment as Security Officers at Rockland Community College had changed, that certain examinations would be required, and that the first of the examinations would be held in February 2009. This correspondence was a final and binding determination within the meaning of CPLR 217(1), as it had an impact upon the petitioners and they knew they were aggrieved, and it therefore commenced the running of the statute of limitations (*see New York Coalition for Quality Assisted Living, Inc. v Novello*, 53 AD3d 914, 916). The petitioners did not commence this proceeding,

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however, until January 2010, which was beyond the applicable four-month statute of limitations of CPLR 217(1). Accordingly, the Supreme Court properly granted that branch of the respondents' motion which was to dismiss the proceeding as time-barred, and dismissed the proceeding.

In light of the foregoing, we need not address the parties' remaining contentions.

DILLON, J.P., ANGIOLILLO, FLORIO and COHEN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court