

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

1061

CA 12-00594

PRESENT: SCUDDER, P.J., SMITH, FAHEY, AND LINDLEY, JJ.

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IN THE MATTER OF FRANK A. SEDITA, III AND  
ERIE COUNTY DISTRICT ATTORNEY'S OFFICE,  
PETITIONERS-APPELLANTS,

V

MEMORANDUM AND ORDER

MARK A. SACHA, RESPONDENT-RESPONDENT.

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HODGSON RUSS LLP, BUFFALO (JOSHUA FEINSTEIN OF COUNSEL), FOR  
PETITIONERS-APPELLANTS.

CHAMBERLAIN D'AMANDA OPPENHEIMER & GREENFIELD, LLP, ROCHESTER (MATTHEW  
J. FUSCO OF COUNSEL), FOR RESPONDENT-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (Mark H. Dadd, A.J.), entered September 6, 2011. The order "denied" the petition.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Memorandum: Although petitioners appeal from an order that purportedly "denied" their petition, they concede in their brief that Supreme Court "effectively granted the relief requested in the Verified Petition" and seek only to have certain language stricken from the order. Where, as here, the appealing parties have by their own concession "obtained the full relief sought, [they have] no grounds for appeal . . . This is so even where [they] disagree[] with the particular findings, rationale or the opinion supporting the order . . . , or where [they] failed to prevail on all the issues that had been raised" (*Parochial Bus Sys. v Board of Educ. of City of N.Y.*, 60 NY2d 539, 545). "Merely because the order appealed from contains language or reasoning that a party deems adverse to its interests does not furnish a basis for standing to take an appeal" (*Cholowsky v Civiletti*, 69 AD3d 110, 116 [internal quotation marks omitted]). We therefore agree with respondent that this appeal must be dismissed (see CPLR 5511).

We note that we have not addressed petitioners' remaining contentions inasmuch as those contentions are raised for the first time in their reply brief and thus are not properly before this Court (see generally *Matter of State of New York v Zimmer* [appeal No. 4], 63

AD3d 1563, 1564; *Turner v Canale*, 15 AD3d 960, 961, *lv denied* 5 NY3d 702).

Entered: October 5, 2012

Frances E. Cafarell  
Clerk of the Court