

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

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CA 14-01401

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, SCONIERS, AND DEJOSEPH, JJ.

IN THE MATTER OF ELENA ARRAZOLA,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

STATE OF NEW YORK DEPARTMENT OF MOTOR VEHICLES,
APPEALS BOARD, RESPONDENT-RESPONDENT.

PHETERSON SPATORICO LLP, ROCHESTER (KAMRAN HASHMI OF COUNSEL), FOR
PETITIONER-APPELLANT.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (JONATHAN D. HITSOUS OF
COUNSEL), FOR RESPONDENT-RESPONDENT.

Appeal from a judgment (denominated order) of the Supreme Court, Monroe County (Thomas A. Stander, J.), entered October 9, 2013 in a proceeding pursuant to CPLR article 78. The judgment confirmed the determination of respondent to deny the application of petitioner for a driver's license and dismissed the petition.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed without costs.

Memorandum: Petitioner commenced this CPLR article 78 proceeding challenging respondent's determination pursuant to 15 NYCRR 136.5 (b) (2) denying her application for a driver's license. Supreme Court properly confirmed the determination and dismissed the petition on the ground that the determination was "neither irrational nor arbitrary and capricious" (*Matter of Sacandaga Park Civic Assn. v Zoning Bd. of Appeals of Town of Northampton*, 296 AD2d 807, 809). Petitioner's facial challenge to 15 NYCRR part 136 is not preserved for our review, and we therefore do not address it (*see Matter of U.S. Energy Dev. Corp. v New York State Dept. of Env'tl. Conservation*, 118 AD3d 1381, 1383).

Entered: June 12, 2015

Frances E. Cafarell
Clerk of the Court