

Matter of Lewis v New York State Bd. of Elections

2024 NY Slip Op 34663(U)

August 28, 2024

Supreme Court, Albany County

Docket Number: Index No. 905570-24

Judge: Christina L. Ryba

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STATE OF NEW YORK
SUPREME COURT COUNTY OF ALBANY

In the Matter of the Application of
SCOTT PHILLIP LEWIS,

Petitioner,

DECISION/ORDER
Index No. 905570-24

v

NEW YORK STATE BOARD OF ELECTIONS,
MARGARET BARTLEY and SCOTT WALTON,
and THE NEW YORK STATE BOARD OF ELECTIONS,
Respondents.

APPEARANCES:

Scott Phillip Lewis
Petitioner pro se
1936 Saranac Ave. #3, PMB 411
Lake Placid, NY 12946

New York State Board of Elections
40 North Pearl Street, Suite 5
Albany, NY 12207-2729

Joseph T. Burns, Esq.
For Respondent Scott Walton
1811 Northwood Dr.
Williamsville, NY 14221

The Law Office of Paula Collins, PLLC
For Respondent Margaret Bartley
251 W. 30th Street, Fifth Floor
New York, NY 10001

RYBA, J.,

Petitioner commenced this proceeding pursuant to Election Law § 6-102 challenging a determination of respondent New York State Board of Elections invalidating an independent nominating petition naming him as the Common Sense Party candidate for public office within the 21st Congressional District in the November 5, 2024 general election. Respondents served their respective answers in which they alleged that, inter alia, this proceeding should be dismissed as

untimely. Following oral argument, this Court issued a decision and order dismissing the petition as untimely due to petitioner's failure to complete service upon respondents prior to the expiration of the applicable statute of limitations. Petitioner now seeks reargument and/or renewal of this Court's decision.

A motion for reargument is addressed to the sound discretion of the Court and is designed to permit a party an opportunity to establish that the Court misapprehended the relevant facts or misapplied a controlling principle law in deciding a prior motion (see, Campos v State of New York, 139 AD3d 479, 481 [2016]; Foley v Roche, 68 AD2d 558, 567 [1976]). Its purpose is not to permit the unsuccessful party the opportunity to argue once again the same questions that were previously decided (see, Foley v Roche, 68 AD2d at 567-568 [1976]). Nor is a motion for reargument a proper vehicle for raising new arguments that could have been advanced in the context of the original motion (see, Wasson v Bond, 134 AD3d 1224, 1225 [2015]; Foley v Roche, 68 AD2d at 568 [1976]). A motion seeking renewal pursuant to CPLR 2221 (e) must be based upon new facts not offered on the prior motion that would change the prior determination, and must contain reasonable justification for the failure to present such facts on the prior motion. Interpreting this statute, courts have held that a motion for leave to renew must be based upon additional facts which, although in existence at the time of the original motion, were not known to the party seeking renewal (see, Orange and Rockland Utilities, Inc. v Assessor of Town of Haverstraw, 304 AD2d 668, 669 [2003]; Foley v Roche, 68 AD2d at 568 [1976]).

Here, petitioner has failed to establish that the Court misapprehended the relevant facts or misapplied a controlling principle law in rendering its prior decision. Moreover, petitioner has not offered any additional facts that would warrant renewal of the prior decision. For these reasons,

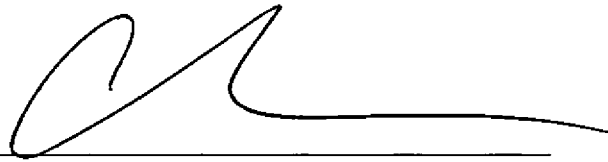
petitioner's motion is denied.

ORDERED that the motion is denied.

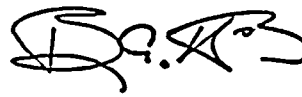
This constitutes the Decision, Order and Judgment of the Court, the original of which is being transmitted to the Albany County Clerk for electronic filing and entry. Upon such entry, counsel for respondent New York State Board of Elections shall promptly serve notice of entry on all other parties (see, Uniform Rules for Trial Courts [22 NYCRR] § 202.5-b [h] [1], [2]).

ENTER.

Dated: August 28, 2024



HON. CHRISTINA L. RYBA
Supreme Court Justice



08/28/2024