

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Matter of Curatolo v. Donahue

2026 NY Slip Op 02111 · No. 2022-02928 · Decided April 8, 2026

SUMMARY

The Appellate Division, Second Department, affirmed the denial of a CPLR article 78 petition challenging the refusal to designate a correction sergeant as an investigator under Civil Service Law § 58(4). The court held that the petitioner was not entitled to the designation because he was not temporarily assigned to perform investigator duties in his position as correction sergeant.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Angela G. Iannacci, J.P.; Valerie Brathwaite Nelson, J.; Deborah A. Dowling, J.; Donna-Marie E. Golia, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	April 8, 2026
DOCKET	2022-02928
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment denying a CPLR article 78 petition and dismissing the proceeding after a nonjury trial.
PRECEDENTIAL VALUE	Published
PARTIES	Mark Curatolo v. Daniel Donahue, as Under-Sheriff of the Sheriff's Department, Nassau County Sheriff's Department

TOPICS

- judicial review of agency action
- administrative law
- agency adjudication
- appellate procedure
- civil procedure

PRACTICE AREAS

- administrative law
- civil service law
- appellate procedure

QUESTIONS PRESENTED

1. Whether the petitioner was entitled to permanent designation as an investigator under Civil Service Law § 58(4) based on his employment as a correction sergeant.
2. Whether the Supreme Court properly denied the CPLR article 78 petition after a nonjury trial.

HOLDINGS

1. A correction sergeant is not entitled to permanent designation as an investigator under Civil Service Law § 58(4) unless the employee was temporarily assigned to perform the duties of an investigator.

KEY QUOTATIONS

“any person who has received permanent appointment to the position of . . . correction officer of any rank . . . and is temporarily assigned to perform the duties of detective or investigator shall, whenever such assignment . . . exceeds eighteen months, be permanently designated as a detective or investigator” ([*1])

FACTUAL BACKGROUND

The petitioner had been employed as a correction sergeant with the Nassau County Sheriff's Department since 2017. In November 2019, he requested designation as an investigator under Civil Service Law § 58(4), but the Under-Sheriff denied the request on November 14, 2019. The court found that the petitioner had not been temporarily assigned to perform investigator duties in his position as correction sergeant.

PROCEDURAL HISTORY

Curatolo, a correction sergeant employed by the Nassau County Sheriff's Department, challenged the Under-Sheriff's denial of his request for permanent designation as an investigator under Civil Service Law § 58(4). The Supreme Court, Nassau County, conducted a nonjury trial pursuant to CPLR 7804(h), denied the petition, and dismissed the proceeding. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Wood v. Irving, 85 N.Y.2d 238, 242
- Matter of Calabrese v. Commissioner of Police of City of Yonkers, 282 A.D.2d 457, 457
- Matter of Cieslinski v. Cassino, 282 A.D.2d 457, 458

OPINION

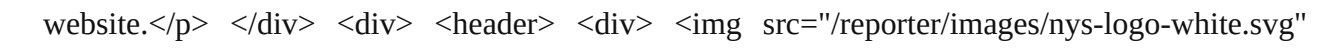
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PER CURIAM.

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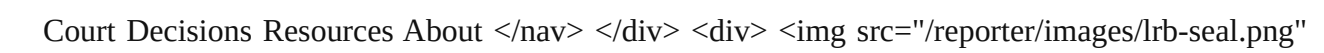
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2026 NY Slip Op 02111

April 8, 2026

Appellate Division, Second Department

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This decision is uncorrected and subject to revision before publication in the Official Reports.

In the Matter of Mark Curatolo, appellant,

v

Daniel Donahue, as Under-Sheriff of the Sheriff's Department, et al., respondents.

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

Decided on April 8, 2026

2022-02928, (Index No. 602980/20)

Angela G. Iannacci, J.P.

Valerie Brathwaite Nelson

Deborah A. Dowling

Donna-Marie E. Golia, JJ.

Isaacs Devasia Castro & Wien, LLP, New York, NY (Liam L. Castro of counsel), for appellant.

[*1]

DECISION & ORDER

In a proceeding pursuant to CPLR article 78 to review a determination of the respondent Daniel Donahue, as Under-Sheriff of the Sheriff's Department, dated November 14, 2019, which denied the petitioner's request to be designated an investigator in the Nassau County Sheriff's Department pursuant to Civil Service Law § 58(4), the petitioner appeals from a judgment of the Supreme Court, Nassau County (Helen Voutsinas, J.), dated March 20, 2022. The judgment, after a nonjury trial pursuant to CPLR 7804(h), denied the petition and dismissed the proceeding.

ORDERED that the judgment is affirmed, without costs or disbursements.

The petitioner has been employed as a correction sergeant with the respondent Nassau County Sheriff's Department since 2017. In November 2019, the petitioner requested to be designated an investigator pursuant to Civil Service Law § 58(4). In a determination dated November 14, 2019, the respondent Daniel Donahue, as Under-Sheriff of the Sheriff's Department, denied the petitioner's request. Thereafter, the petitioner commenced this proceeding pursuant to CPLR article 78 to annul the determination. In a judgment dated March 20, 2022, the Supreme Court, after a nonjury trial pursuant to CPLR 7804(h), denied the petition and dismissed the proceeding. The petitioner appeals.

The Supreme Court properly denied the petition and dismissed the proceeding. Civil Service Law § 58(4)(b)(ii) (former [c][ii]) provides, in relevant part, that "any person who has received permanent appointment to the position of . . . correction officer of any rank . . . and is temporarily assigned to perform the duties of detective or investigator shall, whenever such assignment . . . exceeds eighteen months, be permanently designated as a detective or investigator" (*see Matter of Wood v Irving*, 85 NY2d 238, 242; *Matter of Calabrese v Commissioner of Police of City of Yonkers*, 282 AD2d 457, 457). Here, the petitioner was not entitled to be designated an investigator pursuant to Civil

Service Law § 58(4) because he was not temporarily assigned to perform the duties of an investigator in his position as correction sergeant (*see* *Matter of Cieslinski v Cassino*, 282 AD2d 457, 458; *Matter of Calabrese v Commissioner of Police of City of Yonkers*, 282 AD2d at 457).

The petitioner's remaining contentions are without merit.

IANNACCI, J.P., BRATHWAITE NELSON, DOWLING and GOLIA, JJ., concur.

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