

**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

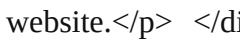
The Appellate Division, Second Department, affirmed the denial of a CPLR article 78 petition challenging the refusal to designate a correction sergeant as an investigator under Civil Service Law § 58(4). The court held that the petitioner was not entitled to the designation because he was not temporarily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

OPINION

PER CURIAM.

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[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.](#)

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.

ENTER:

Darrell M. Joseph

Clerk of the Court