

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

Matter of Thompson v. Brann

2026 NY Slip Op 03679 · No. 2024-04979 · Decided June 10, 2026

SUMMARY

The Appellate Division, Second Department, affirmed dismissal of an Article 78 proceeding brought by a New York City Department of Correction employee seeking to compel the Commissioner to personally conduct a disciplinary hearing. The court held that the petitioner's sole appellate contention was not properly before the court because it was raised for the first time on appeal.

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.; Linda Christopher, J.; Barry E. Warhit, J.; Carl J. Landicino, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	June 10, 2026
DOCKET	2024-04979
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order and judgment dismissing a CPLR article 78 proceeding pursuant to CPLR 3211(a) and 7804(f).
STANDARD OF REVIEW	The court applied the preservation rule and declined to consider an issue raised for the first time on appeal.
PRECEDENTIAL VALUE	published
PARTIES	Eon Thompson v. Cynthia Brann, etc., et al.

TOPICS

judicial review of agency action

agency adjudication

appellate procedure

preservation of error

motions to dismiss

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the petitioner's sole appellate contention could be considered when it was raised for the first time on appeal.
2. Whether the Supreme Court's dismissal of the CPLR article 78 proceeding should be affirmed.

HOLDINGS

1. The petitioner's sole contention was not properly before the Appellate Division because it was raised for the first time on appeal.
2. The order and judgment granting the respondents' motion to dismiss and dismissing the proceeding were affirmed, with costs.

FACTUAL BACKGROUND

Eon Thompson, an employee of the New York City Department of Correction, faced disciplinary charges. He commenced an article 78 proceeding seeking to compel the DOC Commissioner to personally conduct the disciplinary hearing.

PROCEDURAL HISTORY

The petitioner, an employee of the New York City Department of Correction, commenced a CPLR article 78 proceeding seeking, among other relief, to compel the DOC Commissioner to personally conduct his disciplinary hearing. The Supreme Court, Queens County, granted the respondents' dismissal motion and dismissed the proceeding. The petitioner appealed, asserting a contention that the Appellate Division held was raised for the first time on appeal.

DISPOSITION

affirmed

CASES CITED

- Restivo v Lineros, 235 AD3d 915, 916

OPINION**PER CURIAM.**

Matter of Thompson v Brann - 2026 NY Slip Op 03679 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions Matter of Thompson v Brann 2026 NY Slip Op 03679 June 10, 2026 Appellate

Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.

This decision is uncorrected and subject to revision before publication in the Official Reports. In the Matter of Eon Thompson, appellant, v Cynthia Brann, etc., et al., respondents. Supreme Court of the State of New York, Appellate Division, Second Judicial Department Decided on June 10, 2026 2024-04979, (Index No. 1718/20) Angela G. Iannacci, J.P. Linda Christopher Barry E. Warhit Carl J. Landicino, JJ. Eon Thompson, Brooklyn, NY, appellant pro se.

Steven Banks, Corporation Counsel, New York, NY (Amy McCamphill and Jonathan Schoepp-Wong of counsel), for respondents. [*1] DECISION & ORDER In a proceeding pursuant to CPLR article 78, inter alia, to compel the Commissioner of the New York City Department of Correction to personally conduct the petitioner's disciplinary hearing, the petitioner appeals from an order and judgment (one paper) of the Supreme Court, Queens County (Tracy Catapano-Fox, J.), entered September 15, 2022.

The order and judgment granted the respondents' motion pursuant to CPLR 3211(a) and 7804(f) to dismiss the petition and dismissed the proceeding. ORDERED that the order and judgment is affirmed, with costs. The petitioner, an employee of the New York City Department of Correction (hereinafter DOC), commenced this proceeding pursuant to CPLR article 78, inter alia, to compel the Commissioner of the DOC to personally conduct a disciplinary hearing on charges made against the petitioner.

The respondents moved pursuant to CPLR 3211(a) and 7804(f) to dismiss petition. The Supreme Court granted the respondents' motion and dismissed the proceeding. The petitioner appeals. The sole contention made by the petitioner in his appellate brief is not properly before this Court, as it is raised for the first time on appeal (see Restivo v Lineros, 235 AD3d 915, 916).

Accordingly, we affirm the order and judgment. IANNACCI, J.P., CHRISTOPHER, WARHIT and LANDICINO, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.