

# State of New York Court of Appeals

---

This memorandum is uncorrected and subject to revision before publication in the New York Reports.

No. 136  
In the Matter of Luis Pena,  
Respondent,  
v.  
New York State Gaming Commission,  
Appellant.

Jonathan D. Hitsous, for appellant.  
Andrew J. Turro, for respondent.

\* \* \* \* \*

Order reversed, with costs, determination of the New York State Gaming Commission confirmed, and petition dismissed for reasons stated in the dissenting opinion of Justice Presiding William E. McCarthy (144 AD3d 1244, 1247-1252 [2016]). Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Decided November 27, 2018