

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

1042

TP 10-00790

PRESENT: MARTOCHE, J.P., CARNI, GREEN, PINE, AND GORSKI, JJ.

IN THE MATTER OF EVELYN H. MONSAY, PETITIONER,

V

MEMORANDUM AND ORDER

NEW YORK STATE DIVISION OF HUMAN RIGHTS,
GALEN D. KIRKLAND, COMMISSIONER, NEW YORK
STATE, STATE UNIVERSITY OF NEW YORK, AND
STATE UNIVERSITY COLLEGE AT OSWEGO, RESPONDENTS.

SUGARMAN LAW FIRM, LLP, SYRACUSE (LAURA L. SPRING OF COUNSEL), FOR
PETITIONER.

ANDREW M. CUOMO, ATTORNEY GENERAL, ALBANY (ZAINAB A. CHAUDHRY OF
COUNSEL), FOR RESPONDENTS NEW YORK STATE, STATE UNIVERSITY OF NEW
YORK, AND STATE UNIVERSITY COLLEGE AT OSWEGO.

Proceeding pursuant to Executive Law § 298 (transferred to the
Appellate Division of the Supreme Court in the Fourth Judicial
Department by order of the Supreme Court, Oswego County [James W.
McCarthy, A.J.], entered April 8, 2010) to review a determination of
respondent New York State Division of Human Rights. The determination
dismissed the complaint of discrimination based on age and sex.

It is hereby ORDERED that the determination is unanimously
confirmed without costs and the petition is dismissed.

Memorandum: Contrary to the contention of petitioner, the
determination that respondent State University College at Oswego
(College) did not unlawfully discriminate against her on the basis of
gender or age is supported by substantial evidence (*see generally*
Rainer N. Mittl, Ophthalmologist, P.C. v New York State Div. of Human
Rights, 100 NY2d 326, 331). Even assuming, arguendo, that petitioner
established a prima facie case of gender or age discrimination, we
conclude that the College rebutted the presumption of discrimination
created by petitioner by presenting the requisite "legitimate,
independent, and nondiscriminatory reasons to support its employment
decision[s]" (*Matter of Miller Brewing Co. v State Div. of Human*
Rights, 66 NY2d 937, 938).

Entered: October 1, 2010

Patricia L. Morgan
Clerk of the Court