

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

982

CA 11-00385

PRESENT: SMITH, J.P., CENTRA, CARNI, GREEN, AND MARTOCHE, JJ.

IN THE MATTER OF THOMAS C. ZEMBIEC,
PETITIONER-RESPONDENT,

V

ORDER

COUNTY OF MONROE, MONROE COUNTY SHERIFF'S
DEPARTMENT, PATRICK O'FLYNN, SHERIFF,
MONROE COUNTY SHERIFF'S DEPARTMENT,
IN HIS OFFICIAL AND INDIVIDUAL CAPACITY,
AND UNDERSHERIFF GARY CAIOLA, IN HIS
OFFICIAL AND INDIVIDUAL CAPACITY,
RESPONDENTS-APPELLANTS.
(APPEAL NO. 1.)

DAVID VAN VARICK, COUNTY ATTORNEY, ROCHESTER (JAMES L. GELORMINI OF
COUNSEL), FOR RESPONDENTS-APPELLANTS.

CHRISTINA A. AGOLA, PLLC, ROCHESTER (CHRISTINA A. AGOLA OF COUNSEL),
FOR PETITIONER-RESPONDENT.

Appeal from a judgment of the Supreme Court, Monroe County
(Harold L. Galloway, J.), entered January 15, 2010 in a proceeding
pursuant to CPLR article 78. The judgment, among other things,
adjudged that petitioner's application for a judgment to annul
respondents' determination is held and remitted to the parties for
additional information.

It is hereby ORDERED that said appeal is unanimously dismissed
without costs (*see Hughes v Nussbaumer, Clarke & Velzy*, 140 AD2d 988;
Chase Manhattan Bank, N.A. v Roberts & Roberts, 63 AD2d 566, 567; *see*
also CPLR 5501 [a] [1]).

Entered: September 30, 2011

Patricia L. Morgan
Clerk of the Court