

Fordham Law School

FLASH: The Fordham Law Archive of Scholarship and History

Art. 78 Motions to Reargue & Oppositions

Court Litigation Documents

March 2022

Art. 78 Motion to Reargue/Opposition - FUSL000119 (2018-06-26)

Follow this and additional works at: https://ir.lawnet.fordham.edu/art78_reargue

Recommended Citation

"Art. 78 Motion to Reargue/Opposition - FUSL000119 (2018-06-26)" (2022). Parole Information Project https://ir.lawnet.fordham.edu/art78_reargue/1

This Parole Document is brought to you for free and open access by the Court Litigation Documents at FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Art. 78 Motions to Reargue & Oppositions by an authorized administrator of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact tmelnick@law.fordham.edu.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

-----X
In the Matter of [REDACTED]

Petitioner,

-against-

NEW YORK STATE BOARD OF PAROLE,
Respondent.

NOTICE OF MOTION

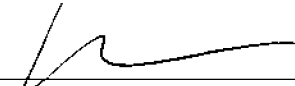
Index No. [REDACTED]
Hon. Denise M. Watson
A.J.S.C.

-----X

PLEASE TAKE NOTICE that upon the affirmation of Heather R. Rubinstein, Assistant Attorney General, dated June 26, 2018, the affidavits and the exhibits annexed thereto, the petition and all other papers filed in these proceedings, respondent will move at the Dutchess County Courthouse, 10 Market Street, Poughkeepsie, New York, on July 10, at 9:30 a.m., or as soon thereafter as counsel may be heard, for an order pursuant to CPLR §2221, for leave to reargue – affecting the Court’s Decision and Order dated June 19, 2018 and an Order pursuant to CPLR §7805 for a stay of all related proceedings.

DATED: Poughkeepsie, New York
June 26, 2018

Yours, etc.,
Barbara D. Underwood
Attorney General of the
State of New York
Attorney for Respondent
One Civic Center Plaza, Suite 401
Poughkeepsie, NY 12601

BY: 
Heather R. Rubinstein
Assistant Attorney General

TO: Orlee Goldfeld, Esq.
LAW OFFICES OF ORLEE GOLDFELD
200 Park Avenue, Suite 1700
New York, New York 10166

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF DUTCHESS

-----X

In the Matter of [REDACTED]

Petitioner,

-against-

BOARD OF PAROLE,

Respondent.

-----X

STATE OF NEW YORK)
)SS:
COUNTY OF DUTCHESS)

AFFIRMATION

Index No. [REDACTED]
Hon. Denise M. Watson
A.J.S.C.

Heather R. Rubinstein, an attorney admitted to practice before the courts of this state, affirms the following under the penalties of perjury:

1. I am an Assistant Attorney General of counsel to Barbara D. Underwood, Attorney General of the State of New York, attorney for respondent. I submit this affirmation in support of the respondent’s motion for leave to reargue – affecting the Court’s prior Decision and Order dated June 19, 2018 (Dkt. No. 41 filed June 25, 2018). This affirmation is also submitted in support of respondent’s motion for a stay of the proceedings.

2. The Court issued a Decision and Order dated March 29, 2018, requiring respondent submit materials to the Court, for *in camera* review, within 30 days (Dkt. No. 37 filed on April 4, 2018).

3. On April 19, 2018, respondent complied with the Court’s Order and submitted 240 pages of bates stamped documents to the Court.¹ The cover letter, with copy to petitioner’s counsel, reflecting the submission of the *in camera* documents, is attached hereto as Exhibit B.

¹ Given the sensitive nature and content of the materials submitted for *in camera* review, respondent respectfully asks the Court that should the original submissions be located that they either be returned to respondent or destroyed.


4. A second submission of the documents, submitted to the Court for *in camera* review on April 19, 2018, are attached hereto as Exhibit B.²

5. The Court's Decision and Order dated June 19, 2018 refers to the Court's Decision and Order dated March 29, 2018, and goes on to state: "The Court has not received these confidential records. Without the ability to conduct an *in camera* review of these records it is not possible to determine if the use of the records was proper". (Dkt. No. 41). It is clear that the Court's misunderstanding that no *in camera* submission was made affected the Court's determination. Therefore, respondent respectfully requests leave to vacate the Decision and Order of June 19, 2018 and respectfully request the Court reconsider the petition, including an assessment of the *in camera* submissions.

6. The Court's most recent Decision and Order granted the petition and provided respondent with thirty (30) days to complete a *de novo* review. Given the short timeframe involved, respondent seeks a stay of the proceedings pursuant to CPLR §7805. See e.g. Matter of DiBenedetto v Evans, 36 Misc. 3d 1224(A) (Dutchess County Supreme Court 2012)

WHEREFORE, the respondent requests that the motion be granted and the petition dismissed.

DATED: Poughkeepsie, New York
June 26, 2018



Heather R. Rubinstein
Assistant Attorney General

² Because they are being submitted for *in camera* review only, the 240 pages are being hand delivered to the Court and not included in the electronic submission. Only the cover page indicating Exhibit B is attached is electronically filed.