

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

In the Matter of the Application of WALTER SELF,

Petitioner,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules

-against-

NEW YORK STATE DIVISION OF HUMAN RIGHTS (Rey
Torres) Regional Director, (Victor DeAmelia); NEW YORK
STATE DIVISION OF MILITARY & NAVAL AFFAIRS (John J.
Fallarino), Division Supervisor,

Respondents.

NOTICE OF ENTRY

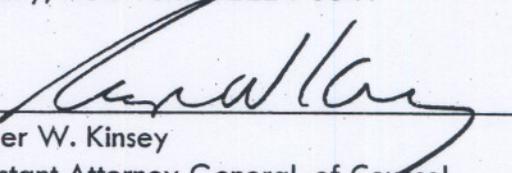
Index No. 7204-06
RJI 01-06-ST7134
March 23, 2007

Sackett, J.

PLEASE TAKE NOTICE that the within is a true copy of the Decision and Judgment in this action
duly entered in the Office of the County Clerk of Albany County on April 6, 2007.

Dated: Albany, New York
April 10, 2007

ANDREW M. CUOMO
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Albany, New York 12224-0341

By: 
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Assistant Attorney General, of Counsel
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TO: Walter Self
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Albany, New York 12208

April 10, 2007
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

In the Matter of the Application of
WALTER SELF,

Petitioner,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules

- against -

NEW YORK STATE DIVISION OF HUMAN RIGHTS
REY TORRES REGIONAL DIRECTOR VICTOR DE
AMELIA AND NEW YORK STATE DIVISION OF
MILITARY AND NAVAL AFFAIRS JOHN J. FALLARINO,

Respondents.

Motion Return Date: Albany County Special Term, March 23, 2007

RJI Number: 01-06-ST7134

Index Number: 7204/06

Justice Robert A. Sackett, Presiding

APPEARANCES: Walter Self
Self-Represented Petitioner
78 Dana Avenue
Albany, New York 12208

Andrew M. Cuomo, Attorney General of the
State of New York
Attorney for Respondent
The Capitol
Albany, New York 12224
Roger W. Kinsey, Assistant Attorney General,
of Counsel

SACKETT, J.:

In this CPLR article 78 proceeding, petitioner moves to reargue its prior petition wherein he claimed that an evaluation of his work dated September 14, 2005 was placed in his file by his employer, respondent the New York State Division of Military and Naval Affairs ["DMNA"], as a retaliatory measure for previous complaints he brought against the DMNA in 1999 and 2004. The prior petition resulted in a Decision and Judgment of this Court by the Hon. Robert A. Sackett, J.S.C., dated January 17, 2007, which granted respondents' motion to

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**DECISION AND
JUDGMENT**

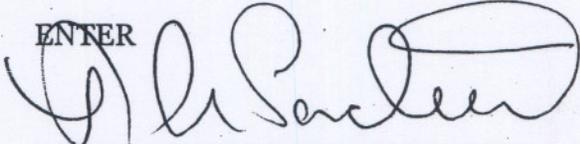
dismiss the petition on, *inter alia*, jurisdictional grounds.

A motion to reargue is addressed to the sound discretion of the Court (see Foley v Roche, 68 AD2d 558 [1979], *appeal after remand*, 86 AD2d 857 [1982], *lv denied* 56 NY2d 507 [1982]). A motion for leave to reargue is not designed to allow a litigant to propound the same arguments the court has already considered, but to point out controlling principles of law or fact that the court may have overlooked (Loris v S&W Realty Corp., 16 AD3d 729 [2005]).

Petitioner's application is denied. As a basis for dismissal of the petition, the Court concurred with respondents that petitioner had failed to obtain jurisdiction over respondents Ray Torres and Victor DeAmelia. Additionally, while petitioner attempted to effect service upon the Attorney General by mail, in absence of an order specifically authorizing this manner of service, the Court found that such method of service was jurisdictionally defective. To reiterate the Court's decision, even if the Court were to consider petitioner's method of service upon the Attorney General as proper, such service alone is insufficient to acquire jurisdiction over respondents (see Matter of Cohen v State Tax Comm., 51 AD2d 79 [1976]). Thus, contrary to petitioner's misguided representations that such service upon the Attorney General is sufficient to acquire jurisdiction over respondents, the Court neither misunderstood the facts nor overlooked controlling principles of law or mistakenly arrived at its earlier decision.

Accordingly, the motion is denied, without costs. This constitutes the Decision and Judgment of this Court. All papers, including the original copy of this Decision and Judgment, are being returned to the Attorney General, who is not relieved from the provisions of CPLR 2220 with respect to filing, entry and notice of entry.

Dated: Monticello, New York
March 27, 2007

ENTER


Hon. Robert A. Sackett, JSC

Papers considered:

Notice of motion, and supporting affidavit of Walter Self, dated February 19, 2007, with exhibits; affirmation of Roger W. Kinsey, Assistant Attorney General, dated February 22, 2007, with exhibits and memorandum of law in opposition; rebuttal affidavit of Walter Self, dated March 20, 2007, with exhibits.

