

Matter of Johnson v Annucci
2016 NY Slip Op 32603(U)
December 30, 2016
Supreme Court, Franklin County
Docket Number: 2016-762
Judge: S. Peter Feldstein
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**STATE OF NEW YORK
SUPREME COURT**

COUNTY OF FRANKLIN

X

In the Matter of the Application of
JOHNATHAN JOHNSON, #89-A-1042,
Petitioner,

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

DECISION AND JUDGMENT
RJI #16-1-2016-0473.88
INDEX # 2016-762

-against-

ANTHONY J. ANNUCCI, Acting Commissioner,
NYS Department of Corrections and Community
Supervision,

Respondent.

X

The Court has before it a Petition for judgment pursuant to Article 78 of the CPLR of Johnathan Johnson, verified on December 14, 2016 and filed in the Franklin County Clerk's Office on December 19, 2016. Petitioner, who is an inmate at the Upstate Correctional Facility, states that his petition challenges: "the unconstitutional (*sic*) of the respondent's implementation of Directive 4040 [(Exhibit "A") Annexed) on the grounds that Upstate Correctional Facility employees, Superintendent and Inmates Grievance Resolution Committee [herein IGRC] and Central Office Review Committee] herein CORC] fails to comply with New York Correction Laws 39.[2] and [3]." Petition, ¶3. The remainder of the Petition is replete with a variety of scattered, conclusory allegations that are lacking in context and otherwise extremely difficult to understand. In addition, the petitioner attached numerous grievance determinations by the Superintendent and CORC dating back to at least 2013. The petitioner purportedly seeks a declaratory judgment that Directive 4040 is not being applied at the Upstate Correctional Facility and also that Directive 4040 is unconstitutional.

CPLR §3013 provides, in relevant part, that "[s]tatements in a pleading shall be sufficiently particular to give the court and parties notice of the transactions, occurrences,

or series of transactions or occurrences, intended to be proved in the material elements of each cause of action . . .” The Court finds that the petition currently before it fails to meet this standard.

This Court handles numerous proceedings initiated by *pro se* inmate petitioners at various DOCCS facilities and recognizes that, in the absence of the availability of assigned counsel, both the Court and the Attorney General’s office must, at times, endeavor to make the best of substandard pleadings. Otherwise, scarce judicial resources would be wasted in endless effort to compel compliance with technical legal requirements by individuals who are all too often ill-equipped to comply. Where, as here, however, the Court finds that a *pro se* inmate petitioner’s failure to meet the standards set forth in CPLR §3013 is particularly egregious and that a respondent would be unduly prejudiced if required to attempt to fashion a responsive pleading, dismissal is warranted. It is also noted that during calendar 2016 petitioner has commenced 16 separate CPLR Article 78 proceedings in this Court. While the Court might be more inclined to overlook and consider the substandard pleading of a *pro se* inmate petitioner who occasionally appears before it, a higher level of compliance with established pleading requirements is expected from a *pro se* inmate petitioner intending to initiate litigation on a regular basis.

Based upon all of the above, it is, therefore, the decision of the Court and it is hereby **ORDERED**, that petitioner’s request for the issuance of an Order to Show Cause in a CPLR Article 78 proceeding is denied; and it is further

ADJUDGED, that the petition is dismissed without prejudice.

Dated: December 30, 2016 at
Indian Lake, New York.

S. Peter Feldstein
Acting Supreme Court Justice