

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----  
In the Matter of the  
Application of  
ABRAHAM FELLNER and JOHN DEASY,

Petitioners,

for an Order Pursuant to Article 78  
of the Civil Practice Law and Rules  
directed to

ARVID ANDERSON, Chairman, etc.  
-----

Starke, J. (162 NYLJ No.- 106 12/3/69 p. 16)

In this article 78 proceeding, petitioners, who are employed as probation officers incumbent in the Queens Supreme Court Probation Department, seek an order directing respondents to terminate a certificate of extent of representation and exclusive bargaining status heretofore issued to the Probation and Parole Officers Association of Greater New York. Respondents cross-move to dismiss the petition on the ground that petitioners are not entitled to the relief sought. From an examination of the papers, it appears that the overall bargaining unit of all non-supervisory probation officers in the city was found appropriate by the New York City Department of Labor, adopted by the administrative board of the judicial conference and upheld by the New York Court of Appeals in Matter of Kleinman v. McCoy (19 N.Y. 2d 292). With respect to the petitioners' remaining contentions that the respondent association's certification should be terminated because it failed to fairly represent petitioners and is employer dominated, it appears that petitioners have failed to exhaust their administrative remedies. Further it appears that with respect to the appropriateness of the overall unit, the time fixed by law to review the respondent board's determination has expired (see Arvid Anderson, aff'd Nov. 12 1969, ex. B). Accordingly, the cross-motions are granted and the petition is dismissed. Settle judgment.