

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

1217

CA 15-00698

PRESENT: SCUDDER, P.J., SMITH, CENTRA, WHALEN, AND DEJOSEPH, JJ.

LEE WILLIAMS, CLAIMANT-APPELLANT,

V

MEMORANDUM AND ORDER

STATE OF NEW YORK AND SUNY AT BUFFALO,
RESPONDENTS-RESPONDENTS.

DOLCE PANEPINTO, P.C., BUFFALO (PHILLIP URBAN OF COUNSEL), FOR
CLAIMANT-APPELLANT.

GOLDBERG SEGALLA LLP, BUFFALO (DANIEL HUNTER OF COUNSEL), FOR
RESPONDENTS-RESPONDENTS.

Appeal from an order of the Court of Claims (Michael E. Hudson, J.), entered July 18, 2014. The order denied the motion of claimant seeking leave to file a late claim.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: We affirm for reasons stated in the decision at the Court of Claims. We write only to note that we reject claimant's contention that merit alone should have warranted granting his motion for leave to file a late claim pursuant to Court of Claims Act § 10 (6). "Nothing in the statute makes the presence or absence of any one factor determinative" (*Bay Terrace Coop. Section IV v New York State Empls. Retirement Sys. Policemen's & Firemen's Retirement Sys.*, 55 NY2d 979, 981) and, in any event, we agree with the court that claimant did not "adequately set forth sufficient facts demonstrating that his claim was meritorious" (*Olsen v State of New York*, 45 AD3d 824, 824).

Entered: November 20, 2015

Frances E. Cafarell
Clerk of the Court