

## APPENDIX

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Appendix A

*State of New York  
Court of Appeals*

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*Decided and Entered on the  
tenth day of February, 2022*

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**Present, Hon. Janet DiFiore, Chief Judge, presiding.**

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Mo. No. 2021-808  
In the Matter of Jimmy Baldea, &c.,  
Appellant,

v.

City of New York License Division of the NYPD,  
Respondent.

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Appellant having moved for leave to appeal to the  
Court of Appeals in the above cause;

Upon the papers filed and due deliberations, it is  
ORDERED, that the motion is denied.

[SEAL]

/s/ John P. Asiello  
John P. Asiello  
Clerk of the Court

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Appendix B

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION—FIRST DEPARTMENT

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**Index No. 101128/19**

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Jimmy Baldea, American Resources  
& Strategies Inc.,  
*Plaintiff-Appellant,*

—against—

CITY OF NEW YORK LICENSE DIVISION OF  
THE NYPD,

*Defendant-Respondent.*

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**NOTICE OF ENTRY**

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**PLEASE TAKE NOTICE** that the attached is a true copy of the order of the Appellate Division, First Department in this matter which was entered in the Clerk's Office on the 19th day of August 2021.

Dated: New York, New York  
September 15, 2021

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/s/ Jimmy Baldea

Jimmy Baldea,  
29-05 160th Street  
Flushing, New York 11358  
Business Phone: (212) 300-5126  
Email Jimmy@Baldea.com  
*Pro-Se Plaintiff-Appellant*

TO:

Tahirih Sadreih, Esq.  
Corporation Counsel of the City of New York  
*Attorneys for Defendant-Respondent*  
100 Church Street  
New York, New York 10007  
Phone (212) 356-3191  
Email TSadrieh@law.nyc.gov

**Supreme Court of the State of New York  
Appellate Division, First Judicial Department**

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Present – Hon. Barbara R. Kapnick, Justice Presiding,  
Angela M. Mazzarelli  
Peter H. Moulton  
Manuel J. Mendez, Justices.

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Motion No. **2021-02170**  
Index No. 101128/2019  
Case No. 202-01177

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In the Matter of Jimmy Baldea, American  
Resources & Strategies Inc.,  
Petitioner-Appellant,  
—against—

City of New York License Division of the NYPD,  
Respondent-Respondent.

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Petitioner-appellant having moved, pro-se, for leave to appeal to the Court of Appeals from the decision and order of this Court, entered on May 27, 2021 (Appeal No. 13933N),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTERED: August 19, 2021

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/s/ Susanna Molina Rojas  
Susanna Molina Rojas  
Clerk of the Court

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[LOGO]

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[88505]

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

**AFFIDAVIT OF SERVICE**

Edward Gutowski, being duly sworn, deposes and says: I am not a party to the action, and I am over 18 years of age.

On the 16th day of September 2021, I served 1 true copy of the within

**Notice of Entry**

upon the attorneys at the addresses indicated below, by the following method(s):

Contact	Address + Email Address	Delivery Method
Tahirih Sadrieh Corporation Counsel of the City of New York  <i>Attorneys for Defendant-Respondent</i>	100 Church Street New York, New York 10007 (212) 356-3191 tsadrieh@ law.nyc.gov	FedEx Next Business Day

/s/ Edward Gutowski

Case Name: Baldea v. City of New York License Division  
Index Number: 101128/19

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/s/ Nadia Oswald-Hamid

**Sworn to me this:**

September 16, 2021

Nadia R. Oswald-Hamid

Notary Public, State of New York

No. 01OS6101366

Qualified in Kings

Commission Expires November 10, 2023



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Appendix C

SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY

**PRESENT:** Edmead **PART** 35  
**INDEX NUMBER:** 101128/2019  
**MOTION DATE:** 11/26/19  
**MOTION SEQ. NO.** 1

Index Number: 101128/2019  
BALDEA, JIMMY, AMERICAN  
vs.  
CITY OF NY LICENSE DIV OF  
Sequence Number: 001  
ARTICLE 78

[STAMP]  
RECEIVED

NOV 27, 2019

NYS SUPREME COURT – CIVIL  
GENERAL CLERK'S OFFICE

The following papers, numbered 1 to \_\_, were  
read on this motion to/for \_\_\_\_\_

Notice of Motion/Order to Show Cause —  
Affidavits — Exhibits \_\_\_\_\_ | No(s). \_\_\_\_\_

Answering Affidavits — Exhibits \_\_\_\_\_ | No(s). \_\_\_\_\_

Replying Affidavits \_\_\_\_\_ | No(s). \_\_\_\_\_

Upon the foregoing papers, it is ordered that  
this motion is

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In accordance with the "So-Ordered" transcript November 26, 2019 [K. Jones, Sr. Ct. Rptr.], oral argument, and a review of the complete submissions, it is hereby

ORDERED that the application by Petitioner pursuant to Article 78 seeking to vacate Respondent's determination denying Petitioner's renewal application for an Unrestricted Business Carry License is denied. Respondent rationally found that Petitioner did not demonstrate proper cause for renewal as he did not demonstrate, as required under 38 RCNY 5-03, that by reason of his employment or business, he is exposed to extraordinary personal danger and/or proof of recurrent threats to life or safety. He also failed to demonstrate a special need for self-protection that distinguished him from others in the community. Respondent's decision was thus a reasonable exercise of discretion and is not subject to judicial intervention. It is further

ORDERED that the application is denied and the petition is dismissed with prejudice.

[STAMP]  
FILED

NOV 27, 2019

NEW YORK COUNTY  
COUNTY CLERK

**Dated: 11/26/2019**

/s/ Carol R. Edmead, J.S.C.  
HON. CAROL R. EDMEAD, J.S.C.

**MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE \_\_\_\_\_**

**FOR THE FOLLOWING REASON(S): \_\_\_\_\_**

**1. CHECK ONE \_\_\_\_\_**

- CASE DISPOSED**
- NON-FINAL DISPOSITION**

**2. CHECK AS APPROPRIATE: \_\_\_\_ MOTION IS:**

- GRANTED**  **DENIED**
- GRANTED IN PART**  **OTHER**

**3. CHECK IF APPROPRIATE: \_\_\_\_\_**

- SETTLE ORDER**  **SUBMIT ORDER**
- DO NOT POST**
- FIDUCIARY APPOINTMENT**
- REFERENCE**

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Appendix D

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION—FIRST DEPARTMENT

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Index No. 101128/19  
Case No. 2020-01177

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Kapnick, J.P., Mazzarelli, Moulton, Mendez, JJ.  
139933N

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In the Matter of Jimmy BALDEA, AMERICAN  
RESOURCES & STRATEGIES INC.,

Petitioner-Appellant,

—against—

CITY OF NEW YORK LICENSE DIVISION OF THE NYPD,

Respondent-Respondent.

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Jimmy Baldea, appellant pro se.

James E. Johnson, Corporation Counsel, New York  
(Tahirih M. Sadrieh of counsel), for respondent.

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Judgment (denominated an order), Supreme Court,  
New York County (Carol R. Edmead, J.), entered  
November 27, 2019, denying the petition to annul the  
determination of respondent City of New York Police

Department License Division, dated May 8, 2019, which denied petitioner's renewal application for an unrestricted business carry license, and dismissing the proceeding brought pursuant to CPLR article 78, unanimously affirmed, without costs.

The court properly determined that the denial of petitioner's renewal application was not arbitrary and capricious. Respondent rationally concluded that petitioner's application did not establish "proper cause" within the meaning of Penal Law § 400.00, in the absence of documentation substantiating threats to petitioner personally (*see* 38 RCNY 5-03; *Matter of Martinek v Kerik*, 294 AD2d 221, 221-222 [1st Dept 2002], *lv denied* 98 NY2d 613 [2002]).

We have considered petitioner's remaining arguments and find them unavailing.

THIS CONSTITUTES THE DECISION  
AND ORDER OF THE SUPREME COURT,  
APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: May 27, 2021

/s/ Susanna Molina Rojas  
Susanna Molina Rojas  
Clerk of the Court