

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

PRESENT: Hon Joan A. Madden
Justice

PART 11

Johnson

Plaintiffs,

- v -

Berlin

Defendants.

INDEX NO.

40081/10

MOTION DATE

MOTION SEQ. NO.

01

MOTION CAL. NO.

The following papers, numbered 1 to _____ were read on this ^{date} motion to/for

Article 78 relief

PAPERS NUMBERED

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits _____

Replying Affidavits _____

Cross-Motion: Yes No

Upon the foregoing papers, it is ORDERED that this motion proceeding is moot as it has been discontinued as per the annexed so-ordered stipulation of discontinuance.

FILED

OCT 04 2012

NEW YORK
COUNTY CLERK'S OFFICE

Dated: September 19, 2012

[Signature]
HON. JOAN A. MADDEN

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

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

-----X
In the Matter of the Application of
DONALD JOHNSON,

Petitioner,

For Judgment Pursuant to Article 78 and for Declaratory
Relief Pursuant to Section 3001 of the Civil Practice Law
& Rules,

- against -

ELIZABETH R. BERLIN, as Executive Deputy
Commissioner of the New York State Office of
Temporary and Disability Assistance, and ROBERT
DOAR, as Commissioner of the New York City Human
Resources Administration,

Respondents.
-----X

Index No. 400081/2010

STIPULATION OF
DISCONTINUANCE

FILED

OCT 04 2012

NEW YORK
COUNTY CLERK'S OFFICE

WHEREAS, on January 11, 2010, Petitioner commenced the above-captioned Civil Practice Law and Rules ("CPLR") article 78 proceeding and Declaratory Judgment action, challenging the Decision After Fair Hearing (FH# 5297499Q), dated September 9, 2009 ("9/9/2009 DAFH"), of respondent Elizabeth R. Berlin, as Executive Deputy Commissioner of the New York State Office of Temporary and Disability Assistance ("State Respondent"), upholding the decision of respondent Robert Doar, as Commissioner of the New York City Human Resources Administration ("City Respondent"), to discontinue Petitioner's Public Assistance ("PA") benefits and impose a durational sanction on Petitioner for failure to comply with work requirements as described in City Respondent's Notice of Intent (N0725F1543), dated February 13, 2009;

WHEREAS Petitioner sought the following relief: (1) reversal of the 9/9/2009 DAFH; (2) restoration of all PA benefits lost as a result of the 9/9/2009 DAFH; (3) declaration that the 15-day time limit to request reopening of a defaulted administrative fair hearing may be tolled where the failure is a result of a mental or physical disability suffered by the appellant; and (4) declaration that State Respondent's failure to implement a policy that permits a PA recipient with a mental or physical disability to reopen a fair hearing beyond the 15-day time limit violates the American with Disabilities Act and state law and regulations;

WHEREAS City Respondent deleted the sanction from Petitioner's case record and restored to Petitioner all lost PA benefits;

WHEREAS the Court issued an Interim Order, dated October 13, 2010, dismissing this proceeding as against City Respondent;

WHEREAS State Respondent withdrew the 9/9/2009 DAFH;

WHEREAS State Respondent amended 18 N.Y.C.R.R. § 358-5.5 to eliminate the 15-day time limit to reopen a defaulted fair hearing;

IT IS HEREBY stipulated and agreed by and between the undersigned counsel for the parties herein that this CPLR article 78 proceeding and Declaratory Judgment action is discontinued as follows:

1. Petitioner agrees to withdraw and discontinue this proceeding with prejudice pursuant to CPLR 3217(b).
2. Each party agrees to bear its own attorney's fees and costs.
3. The parties request that the Clerk of Court now close this case.
4. This stipulation may be executed in any number of counterparts, all of which taken together shall constitute one stipulation, and may be executed by facsimile or

electronically-transmitted signature.

Dated: Bronx, New York
September 19, 2012

LEGAL SERVICES NYC-BRONX
Attorney for Petitioner
By:



SIENNA FONTAINE, Of Counsel
Legal Services NYC-Bronx
579 Courtlandt Avenue
Bronx, New York 10451
(718) 928-3738

Dated: New York, New York
September 11, 2012

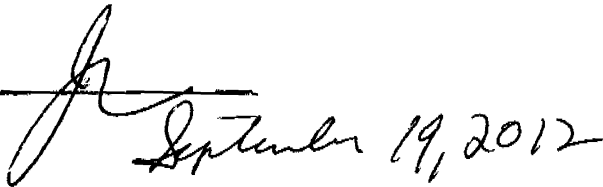
ERIC T. SCHNEIDERMAN
Attorney General for the State
of New York
Attorney for State Respondent
By:



DOMENIC TURZIANO
120 Broadway, 24th Floor
New York, New York 10271
(212) 416-8555

It Is So Ordered

J.S.C.



FILED

OCT 04 2012

NEW YORK
COUNTY CLERK'S OFFICE