Silverman v Carrion
2015 NY Slip Op 32030(U)
July 16, 2015
Supreme Court, New York County
Docket Number: 100167/15
Judge: Alexander W. Hunter, Jr.
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This opinion is uncorrected and not selected for official publication.

[* 1]

Supreme COURT OF THE STATE OF NEW YORK
COUNTY OF New York

Tamara Silverman,

Plaintiffs,

- against -

Gladys Carrion,

Defendants.

Index No. 100167/15
(, J.)

REDACTION COVER PAGE

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Signature of filer: [signature]
Print Name: George Melnik
Counsel appearing for: Respondents (name of party)

Filer is Unrepresented / Pro se: yes / no

Date: 7/16/15

Index No. 100167/2015

New York Supreme Court
New York County

In the Matter of Application of :

TAMARA SILVERMAN, Petitioner, For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules,

Petitioner,

- against -

GLADYS CARRION, Commissioner of the New York City Administration for Children's Services,

Respondent.

Notice of Entry, Order & Judgment

Zachary W. Carter
Corporation Counsel
Scott Silverman, ACC
Attorney for Respondent
100 Church Street, Room 2-107
New York, N.Y. 10007
(212) 356-2450

Due and timely service of a copy of the within Order, Judgment and Notice of Entry is hereby admitted.

New York, N.Y. ..... , *2015*

..... *Esq.*

Attorney for .....

PLEASE TAKE NOTICE that an Order & Judgment, of which the within is a copy, was duly entered in the office of the Clerk of the Supreme Court, New York County on the 14th day of July, 2015.

Zachary W. Carter
Corporation Counsel
July 15, 2015

By: _____
Scott Silverman
Assistant Corporation Counsel

To:
Law Offices of David L. Silverman
Attorneys for Petitioner
2001 Marcus Avenue, Suite 265A South
Lake Success, New York 11042

EA 7/7/15 E

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **ALEXANDER W. HUNTER, JR.** PART 33
Justice

Silverman, Tamara

-v-

Gladys Carrion

INDEX NO. 100167/15

MOTION DATE

MOTION SEQ. NO. 001

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

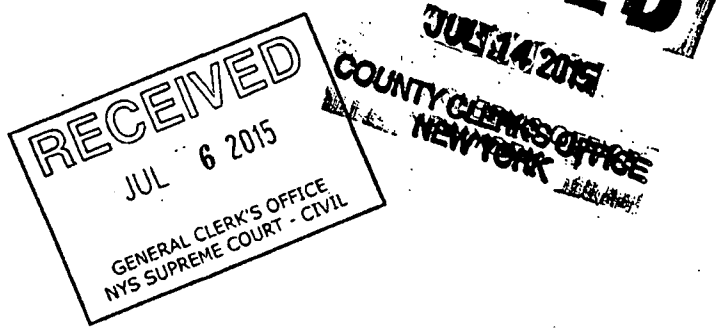
Notice of Motion/Order to Show Cause — Affidavits — Exhibits ____ | No(s). ____

Answering Affidavits — Exhibits ____ | No(s). ____

Replying Affidavits ____ | No(s). ____

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

Decided in accordance with the Order and Judgment annexed hereto.



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

Dated: 7/6/15

ALEXANDER W. HUNTER, J.S.C.

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

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: IAS PART 33

----------X

In the Matter of the Application of

TAMARA SILVERMAN, Petitioner, For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules,

Index No.: 100167/2015

Petitioner,

Order and Judgment

-against-

GLADYS CARRION, Commissioner of the New York City Administration for Children's Services,

Respondent.

----------X

ALEXANDER W. HUNTER, JR.,:

In this article 78 proceeding, in motion sequence 001, petitioner Tamara Silverman seeks a judgment annulling the October 20, 2014 disciplinary determination of respondent Gladys Carrion (Carrion), Commissioner of the New York City Administration for Children's Services (ACS) (respondent), and further expunging charges and punishment from petitioner's record. In the alternative, petitioner requests that the matter be transferred to the Appellate Division, First Department, pursuant to CPLR 7804 (g), for disposition. In motion sequence 002, petitioner moves, pursuant to CPLR 3215, for a default judgment. Respondent cross-moves for an order deeming her verified answer to the petition timely filed nunc pro tunc. Motion sequence numbers 001 and 002 are hereby consolidated for disposition.

BACKGROUND AND FACTUAL ALLEGATIONS

Petitioner has been employed with ACS since 2006, and was appointed as a Case

Management Supervisor I in April 2010. Petitioner oversees a staff of six staff managers at Crossroads juvenile detention center. In May 2014, ACS served petitioner with charges and specifications alleging that she violated ACS rules and regulations. Respondent's exhibit 1. Specifically, ACS alleged that petitioner unlawfully disclosed confidential client information when she sent an email to her lawyer. ACS further alleged that petitioner was insubordinate, and engaged in conduct which would undermine her effectiveness, when petitioner walked out of a meeting with her supervisor, and then later refused to meet with her supervisor.

Pursuant to Civil Service Law section 75, petitioner could not be subject to a disciplinary penalty until after a hearing on the charges. An Office of Administrative Trials and Hearings (OATH) hearing was held on the matter on July 23, 24, 25, 2014. Administrative Law Judge Ingrid Addison (Addison) presided and the parties submitted evidence, were represented by counsel, presented witnesses and also provided post-hearing briefs to Addison.

In her 19-page report and recommendation (Report), Addison sustained one charge of insubordination, dismissed one charge of insubordination, and sustained one charge of disclosure of confidential information. In her Report, Addison addressed each of the charges.

The first charge alleges that petitioner violated sections III (B) (1), (24) and (42) of ACS's code of conduct when she walked out of a meeting with her supervisors on April 9, 2014. Addison explained that, on April 9, 2014, petitioner was called into a meeting with her supervisors. Petitioner did not know what to expect at the meeting. ACS had invited petitioner's union representative, who was present. Petitioner was then handed an unsatisfactory evaluation. She then stated that she wanted her attorney present, but ACS advised her that the union representative was there to ensure fairness and that petitioner was not entitled to have an attorney

present for an evaluation. The evaluation was, according to ACS, "neither disciplinary nor intended to be punitive." Respondent's exhibit 8, Report at 4.

Petitioner walked out of the meeting, despite being asked to stay. Petitioner testified that she read the evaluation, disagreed with it, and left the meeting. She further testified that her supervisor stated to her, "you will leave, Ms. Silverman, you will the meeting when I say so." Respondent's exhibit 2, tr at 251.

Later that day, a supervisor tried to meet with petitioner and asked petitioner to meet in the office of the director of operations. Petitioner refused to attend the meeting, as she did not want to discuss her business with another person not involved with petitioner.

Addison described the parties' testimony regarding the atmosphere in the meeting. For instance, one supervisor testified that petitioner tossed her evaluation back at her supervisors, while petitioner testified that she was polite and cordial at all times. Petitioner claimed that she left the meeting because she felt that she was being confined there against her will. *Id.* at 251-252.

Addison found that petitioner should have remained in the first meeting until she was excused. Addison wrote the following, in pertinent part:

> "[Petitioner's] claim that she disagreed with her evaluation did not justify her decision to walk out of the meeting, especially in light of Mr. Watts' directive to stay or risk insubordination charges. While she may have felt deceived at not having advance notice of the subject of the meeting, I did not believe her claim that she felt confined. Rather, I found it more likely than not that she was incensed at having received a less than exemplary evaluation from one whom she considered less superior. Nonetheless, [petitioner] was obligated to remain for the duration of the meeting until excused."

Id. at 8.

Addison added that, under the Civil Service Law, petitioner was only entitled to a union representative, and not a lawyer. Moreover, as the meeting was not disciplinary in nature, a union representative was not even necessary.

According to Addison, OATH has deemed behavior to be misconduct when the behavior demonstrates "insolence, discourtesy and disrespect." Addison found that petitioner demonstrated insolence when she walked out of the meeting. Therefore, she found that petitioner violated sections III (B) (1) and (24) of the code of conduct. However, as the conduct was out of ear shot of others, Addison found that her conduct did not undermine her effectiveness in performing her duties, and this charge was not sustained. Addison further found that petitioner's conduct with respect to the proposed meeting later on in the day did not constitute insubordination. Addison wrote that petitioner's decision to leave a meeting, "notably before it started, when someone else was invited, did not violate any of [respondent's] rules." *Id.* at 9.

Addison then addressed the charge that petitioner violated the standard of conduct governing the division of youth and family services, and section 2604 (b) (4) of Chapter 68 of the City Charter, when petitioner sent an email disclosing confidential client information to her supervisors and her attorney. Section 2604 (b) (4) provides the following:

> "No public servant shall disclose any confidential information concerning the
> property, affairs or government of the city which is obtained as a result of the official duties of such public servant and which is not otherwise available to the public, or use any such information to advance any direct or indirect financial or other private interest of the public servant or of any other person or firm associated with the public servant; provided, however, that this shall not prohibit any public servant from disclosing any information concerning

> conduct which the public servant knows or reasonably believes to involve waste, inefficiency, corruption, criminal activity or conflict of interest."

Petitioner, complaining about the number of times she had previously responded to the same request seeking information relating to summer youth employment applications, emailed her lawyer and her supervisor the following.

> "DOP Springer has received the requested information on SYEP applications on many occasions, not acknowledging the continuous requested information. Thus, below is the entire gamut of already regurgitated information: [emphasis in original]"

Report at 10.

The email chain had the names, document status and date of birth of at least ten clients. As a result, ACS argued that petitioner breached the clients' privacy by providing the information to someone outside the agency. Petitioner maintained that she emailed her attorney and her supervisor in an attempt to document the enormous amount of "waste" at her job. She believed that the email to her attorney would be privileged information, and that her conduct also was exempt as she was attempting to disclose waste and inefficiency.

After the hearing concluded, Addison held the record open for the parties to brief the issue of whether or not petitioner's email to her counsel satisfied the disclosure exception in section 2604 (b) (4) of Chapter 68 of the City Charter. In her report, Addison found that ACS's emails to petitioner, "repetitive or not, [did not constitute] waste. A supervisor is entitled to make repeated requests for information if she feels that her subordinates's response is insufficient, inadequate or inappropriate." *Id.* at 12. Even if petitioner wanted to report waste, she could have done so without disclosing the personal information of the clients.

After addressing cases cited to by petitioner, Addison further held that the attorney-client privilege did not apply. Petitioner's email was "actually directed at her supervisors, not to her attorney, clearly venting frustrations at Ms. Springer's persistent demands to which she objected." *Id.* at 14. Addison also maintained that in accordance with the New York State Social Services Law, which is the "umbrella" under which the confidentiality of the juvenile clients' records falls, petitioner is obligated to safeguard the records and keep them confidential. Addison suggested that petitioner could have sent the email after redacting confidential information. As a result, Addison found that petitioner violated the agency's standard of conduct and that petitioner's actions were not protected by the disclosure exception under section 2604 (b) (4) of the City Charter.

Addison described petitioner's history with ACS, noting that she has had no prior discipline. Petitioner's witnesses described her as loving, caring and respectful. However, due to petitioner's insolence towards her supervisors, Addison recommended an unpaid suspension of three days.

For the other charge of disclosing confidential information Addison recommended that petitioner be suspended without pay for 20 days. Addison noted that "it is troubling that one in a supervisory capacity at a facility that houses at-risk juveniles would act so recklessly from frustration, to the point of violating rules." *Id.* at 19.

Addison provided her report to Carrion, to make a final determination on the matter. Prior to Carrion's determination, petitioner and ACS submitted comments regarding Addison's Report. Petitioner, too, wrote Carrion a letter, in which she claimed, among other things, that Addison was biased and that petitioner felt insulted when Addison used terms such as cagey and

insolent to describe her behavior.

On October 20, 2014, Carrion adopted the findings of fact and the penalty recommended by Addison. Shortly thereafter, petitioner filed this article 78 proceeding. The court's referee advised respondent to provide answering papers by March 23, 2015. Respondent could not provide her responsive papers by that time. On March 24, 2015, petitioner brought an order to show cause to have respondent held in default, and be precluded from submitting answering papers.

The petition states that Carrion's determination should be annulled, as this determination, in accepting Addison's recommendation, was:

> "[a]rbitrary, capricious, and an abuse of discretion, contrary to the weight of evidence adduced at the disciplinary hearing, and excessive and unduly severe punishment. The punishment was in violation of lawful penalties set forth in the Administrative Code as a well as in violation of the First Amendment and Due process rights of the [petitioner]."

Petition, ¶ 8.

In her memorandum of law, petitioner argues that it was arbitrary and capricious for Carrion to adopt Addison's determination that petitioner breached client confidentiality by sending the email. Petitioner reiterates that her disclosure was within the statutory exception, as she wrote the email to document waste within ACS. In addition, petitioner claims that the email was a protected communication with her attorney. Petitioner argues that Carrion should not be given deference in interpreting section 2604 (b) (4) of the City Charter, as this statute was not promulgated by ACS. She contends that Addison ignored the "legion" of cases which support petitioner's actions.

Petitioner argues that the penalty adopted by Carrion shocks the conscience. As petitioner allegedly did not engage in insubordination, she should not have been suspended for three days without pay. According to counsel, it was petitioner who was involuntarily confined in a room. Petitioner argues that charge for insubordination is frivolous, considering that she only silently departed from a disciplinary conference, which "appeared to have concluded, or at least reached an impasse." Silverman aff, ¶ 131. Counsel believes it "defies logic" that petitioner was insubordinate when she was in the room for at least 20 minutes. *Id.*, ¶ 52. Petitioner believes that any assertion by ACS that the meeting was not disciplinary in nature is "self-serving." *Id.*, ¶ 53. Petitioner provides numerous reasons as to why ACS would "doctor" petitioner's evaluation. For instance, counsel makes generalized claims that respondent discriminated against petitioner based on her race, age, religion and disability, and that ACS has retaliated against petitioner.

In addition, with respect to the breach of client confidentiality, petitioner maintains that ACS has alleged no concrete harm that would have flowed from the attorney-client email. As a result, the other twenty-day suspension is disproportionate to the conduct.

Petitioner alleges that her due process was violated. She claims that she was not allowed to defend herself against the charges and or present relevant evidence during the hearing. For instance, counsel claims that he wanted to present emails and letters detailing waste and inefficiency at ACS between petitioner and various employees, however Addison did not allow these to be introduced as trial exhibits.

According to petitioner, the findings of the Addison Report reflect Addison's bias against petitioner, "and even if they do not, are clearly erroneous as a matter of law, are arbitrary and

capricious, and reflect an abuse of discretion." Memo of law at 3. Counsel claims that Addison felt hostility towards petitioner, and that this prevented Addison from acting in an unbiased manner. As her due process was compromised, petitioner maintains that this court should annul the respondent's determination. However, in the alternative, she argues that the matter should be transferred to the Appellate Division, First Department, for disposition.

Respondent answers and opposes the petition but does not submit a memorandum of law. It provides five boilerplate defenses and proposes that the matter be transferred to the Appellate Division. The sixth defense states that the court should not review two exhibits provided to the court in petitioner's papers, as those exhibits were not offered into evidence at the OATH hearing.

DISCUSSION

Petitioner's Motion for Default:

Respondent allegedly informed petitioner that she would not be able to comply with the deadline to submit her answering papers. Respondent states, "[d]espite the best efforts of counsel, due to the workload . . . it became evident on March 23, 2015 that respondent would not be able to serve its responsive papers in compliance with the referee's schedule." Rosenbaum affirmation, ¶ 13. Petitioner's counsel nonetheless informed respondent that petitioner's position would be that respondent was in default. Petitioner then brought this motion for default one day later. On that same date, respondent served her answering papers.

Petitioner now seeks to preclude respondent from answering the petition. However, as the delay was extremely short, petitioner suffered no prejudice, there was no evidence or willfulness, and respondent offered a reasonable explanation for her delay, petitioner's motion

for default is denied. *See Chevalier v 368 E. 148th St. Assoc., LLC*, 80 AD3d 411, 413-414 (1st Dept 2011). "An affidavit of merit is not required on a motion for leave to serve a late answer where, as here, no default order or judgment has been entered." *Cirillo v Macy's, Inc.*, 61 AD3d 538, 540 (1st Dept 2009). As petitioner's motion is denied, respondent's cross motion to deem her answer timely served nunc pro tunc, is also denied as moot.

Transfer to the Appellate Division is Not Necessary:

As an initial matter, petitioner has brought her Article 78 proceeding based under 7803 (3), or, in the alternative, under CPLR 7803 (4). CPLR 7803 (3) allows challenges on the grounds that the administrative "determination was made in violation of lawful procedure, was affected by an error of law or was arbitrary and capricious or an abuse of discretion."

Under CPLR 7803 (4), an Article 78 proceeding may question "whether a determination made as a result of a hearing held, and at which evidence was taken, pursuant to direction by law is, on the entire record, supported by substantial evidence." Pursuant to CPLR 7804 (g), when the issue of substantial evidence is raised, the court shall transfer the matter to the Appellate Division. However, "[w]here the substantial evidence issue specified in question four of section 7803 is not raised, the court in which the proceeding is commenced shall itself dispose of the issues in the proceeding." CPLR 7804 (g). *see e.g. Matter of Sunrise Manor Ctr. for Nursing & Rehabilitation v Novello*, 19 AD3d 426, 427 (2d Dept 2005) ("The issues framed by the pleadings submitted to the Supreme Court involved questions of law only, and no 'substantial evidence' question (CPLR 7803 [4]), was, in fact, presented. Thus, the transfer of the proceeding to [the Appellate Division] pursuant to CPLR 7804 (g) was improper").

The court notes that respondent does not provide a memorandum of law and simply

contends that, as the sufficiency of the evidence is being challenged, the proceeding must be transferred to the Appellate Division. To the contrary, petitioner mostly alleges that the administrative determination is arbitrary and capricious and that transfer is not required to the Appellate Division, as petitioner was denied a fair hearing. However, the decision of whether or not the proceeding must be transferred to the Appellate Division is one for this court, not for the parties. *See Matter of Bonded Concrete v Town Bd. of Town of Rotterdam*, 176 AD2d 1137, 1137 (3d Dept 1991).

In the present situation, as explained below, the material facts used by the respondent to make its administrative determination are not in dispute. "What is disputed by petitioner is respondents' interpretation of certain statutes and regulations, and their application to the facts, matters which Supreme Court rightly determined were within its province to review in the first instance." *Matter of Westmount Health Facility v Bane*, 195 AD2d 129, 131 (3d Dept 1994). As a result, no substantial evidence issue is raised which would require transfer to the Appellate Division.

Charge of Insubordination:

Neither party has raised disputed factual issues that would raise an issue of substantial evidence. Addison concluded that walking out of a meeting with supervisors before its conclusion constituted disrespectful and insubordinate behavior, that, in turn, violated ACS's code of conduct. Petitioner conceded that she left the meeting before its conclusion, despite a warning from her supervisor. The extraneous disputed facts raised by petitioner, such as whether or not she tossed or slid the evaluation, or whether or not she felt confined, are irrelevant.

Under CPLR 7803 (3), the court must determine whether or not, in light of the facts,

respondent's conclusion that petitioner was insubordinate in violation of the code of conduct, was arbitrary and capricious. This court "cannot interfere unless there is no rational basis for the exercise of discretion or the action complained of is 'arbitrary and capricious.'" *Matter of Pell v Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County*, 34 NY2d 222, 231 (1974). "An action is [considered] arbitrary and capricious when it is taken without sound basis in reason or regard to the facts." *Matter of Peckham v Calogero*, 12 NY3d 424, 431 (2009).

ACS's code of conduct sets forth that employees shall obey all oral and written regulations by ACS supervisors, immediately, without advising a labor representative. As a result, it was rational for respondent to find that petitioner was insubordinate when she walked out of a meeting with her supervisor despite being warned not to.

Charge of Disclosing Confidential Information

Addison found that petitioner breached client confidentiality in violation of both the City Charter and the standards of conduct governing the Division of Youth and Family Services when petitioner emailed her attorney information about clients. Addison found that petitioner's email did not fall within the protections of an attorney-client privilege. She explained, among other things, that petitioner could have redacted client names from the email. Addison further set forth that petitioner's actions, which petitioner believed to be reporting waste and inefficiency, did not fall within the City Charter's exception to the disclosure of confidential information. Addison was not even "slightly convinced" that the supervisor's emails, repetitive or not, constituted waste.

Given the record, and the opportunities for the parties to extensively brief the issue, it was

rational for respondent to hold that petitioner breached client confidentiality. Although petitioner makes generalized and extraneous claims that her supervisors' actions were ill-motivated, again, the issue does not have to be transferred to the Appellate Division. The email sent by petitioner to her attorney is undisputed. Moreover, "the construction given statutes and regulations by the agency responsible for their administration, if not irrational or unreasonable, should be upheld . . . [internal quotation marks and citation omitted]." *Harris v Lavine*, 43 AD2d 894, 894 (4th Dept 1974).

Penalty Imposed:

Petitioner believes that the penalty imposed, consisting of a 23-day suspension without pay, is unduly harsh and excessive. She contends that, as ACS allegedly suffered no harm as a result of her actions, the penalty is unfair.

An administrative sanction, such as petitioner's punishment, "must be upheld unless it shocks the judicial conscience and, therefore, constitutes an abuse of discretion as a matter of law." *Matter of Featherstone v Franco,* 95 NY2d 550, 554 (2000). Given the record and the charges upheld against petitioner, including ones for insubordination and disclosure of confidential information, the court does not conclude that the penalty of suspension without pay shocks one's sense of fairness. According to the manual of procedure in disciplinary actions for civil service employees, a variety of penalties may be imposed, including suspension and even termination. Petitioner's exhibit J at 53. "[R]espect and weight are to be accorded the determination made by the agency charged with responsibility for fixing the penalty or discipline because of the special capability . . . of that agency . . . [internal quotation marks and citation omitted]." *Matter of Copelin v New York City Tr. Auth.*, 184 AD2d 698, 699 (2d Dept 1992).

Bias:

Petitioner alleges numerous reasons why Addison was biased, including her statements towards petitioner's counsel during the hearing and her use of certain words to describe petitioner and petitioner's behavior. Nonetheless, the record indicates that the "hearing was conducted in a fair and impartial manner and that the determination was not the result of any alleged bias on the part of the hearing officer." *Matter of Phillips v Lee*, 115 AD3d 957, 958 (2d Dept 2014). Petitioner's mere dissatisfaction with the outcome of the award is "insufficient to establish bias [internal quotation marks and citation omitted]." *Id.*

Due Process:

Petitioner claims, that her due process was violated, among other reasons, because she was unable to present certain documents as evidence. "[A] respondent in [an administrative] proceeding is entitled to fair notice of the charges against him or her so that he or she may prepare and present an adequate defense and thereby have an opportunity to be heard." *Matter of Block v Ambach*, 73 NY2d 323, 332 (1989). After reviewing the record, the court finds that petitioner's due process was not compromised. Petitioner was informed of the charges, presented pre-and-posting hearing briefs and other legal papers, testified and was represented by counsel.

Additional Exhibits:

In her submissions to the court, petitioner attaches exhibits B and I, which were not part of the record before Addison. Contrary to petitioner's assertions, the court cannot review them at this time. *See Matter of Nelson v New York State Div. of Hous. & Community Renewal*, 95 AD3d 733, 734 (1st Dept 2012) ("As a general principle, judicial review of an administrative determination is limited to a review of the record evidence and the court may not consider

arguments or evidence not contained in the administrative record").

The court has considered petitioner's other contentions and finds them to be without merit.

CONCLUSION

Accordingly, it is hereby

ADJUDGED that the petition is denied and the proceeding is dismissed; and it is further

ORDERED that petitioner's motion for default judgement is denied; and it is further

ORDERED that respondent's cross motion to deem its answer timely, is denied as moot.

Dated: July 6, 2015

ENTER:

ALEXANDER W. HUNTER, JR.
J.S.C.

Milton A. Tingling
Clerk

FILED
JUL 14 2015
COUNTY CLERK'S OFFICE
NEW YORK

Index No. 100167 Year: 2015

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

In the Matter of Application of
TAMARA SILVERMAN, Petitioner, For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules,

Petitioner,

-against-

GLADYS CARRION, Commissioner of the New York City Administration for Children's Services,

Respondent.

ORDER & JUDGMENT

Zachary W. Carter
Corporation Counsel
Attorneys for Respondent
100 Church Street, Rm. 2-107
New York, N.Y. 10007
Of Counsel: Scott Silverman, Esq.
Tel: (212) 356-2450

Due and timely service is hereby admitted.

New York N.Y
,2015 .....

..... *Esq.*

Attorney for .....

AFFIDAVIT OF SERVICE ON ATTORNEY BY MAIL

STATE OF NEW YORK, COUNTY OF NEW YORK, SS:

The undersigned, being duly sworn, deposes and say :

That on the 15th day of July, 2015 he served the annexed Order, Judgment and Notice of Entry upon :

Law Offices of David L. Silverman
2001 Marcus Avenue, Suite 265A South
Lake Success, New York 11042

being the address within the State theretofore designated by him/her for that purpose, by depositing a copy of the same, enclosed in a prepaid wrapper in a post office box situated at 100 Church Street in the Borough of Manhattan, City of New York, regularly maintained by the Government of the United States in said City

George McCook

Sworn to before me this 15th day,
of July, 2015

Notary Public

IRENE BONDAR
Notary Public, State of New York
No. 01BO6126124
Qualified in Kings County
Commission Expires April 25, 2017