Matter of Naughton v Rosa
2025 NY Slip Op 35577(U)
February 14, 2025
Supreme Court, Albany County
Docket Number: Index No. 909845-24
Judge: Christina L. Ryba
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STATE OF NEW YORK
SUPREME COURT COUNTY OF ALBANY

In the Matter of the Application of
JUSTIN NAUGHTON,

Petitioner,

-against-

DECISION/JUDGMENT
Index No. 909845-24

BETTY A. ROSA, COMMISSIONER OF
EDUCATION, NEW YORK STATE
EDUCATION DEPARTMENT,

Respondent.

APPEARANCES:

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RYBA, J.,

Petitioner was enrolled as a student at the Maurice A. Deane School of Law at Hofstra University ("Hofstra University") during the 2021-2022 academic year and the 2022 summer semester. Beginning in the Fall 2021 semester, Hofstra University required all students to receive the COVID-19 vaccination in order to attend in-person classes on campus. Petitioner was granted an exemption from the COVID-19 vaccination mandate and was allowed to attend classes remotely for the Fall 2021, Spring 2022 and Summer 2022 semesters. However, in July 2022, Hofstra

University informed its students that no further vaccine exemptions would be granted and all students were required to return to in-person instruction for the Fall 2022 semester.[1] Those students who did not wish to be vaccinated were given the option of transferring to another law school, becoming a visiting student at another law school, or taking a academic leave of absence. When petitioner challenged the return to in-person instruction as discriminatory and in breach of contract, Hofstra University advised him to pursue the internal complaint process set forth in the institution's harassment policy. Petitioner declined to avail himself of the internal complaint process and instead commenced a civil action against Hofstra University in Federal Court. He subsequently withdrew the Federal action and filed a complaint against Hofstra University with the New York State Education Department's ("NYSED") Office of College and University Evaluation ("OCUE") on August 17, 2023. By determination dated March 8, 2024, OCUE found that petitioner's complaint was not reviewable because he failed to exhaust his administrative remedies by pursuing Hoftra University's internal complaint process. OCUE further found that, even if it were to address the merits of petitioner's complaint, it would conclude that Hofstra University engaged in no wrongdoing.

On October 7, 2024, petitioner commenced this CPLR article 78 proceeding against respondent challenging the March 8, 2024 determination. On October 14, 2024, without prior leave of court, petitioner purported to serve an amended petition naming Hofstra University as an additional respondent. Petitioner thereafter filed two separate memoranda of law which were

[1]The Rules of the New York State Court of Appeals, which governs the education requirements for New York State law schools, limits the number of credit hours that can be achieved through distance learning (see, 22 NYCRR520.3). Those rules were temporarily relaxed during the COVID-19 pandemic, enabling Hofstra Law to permit unvaccinated students to take classes remotely during the Fall 2021, Spring 2022 and Summer 2022 semesters.

denominated as "motions" seeking limited discovery and a protective order. Those memoranda of law were rejected as improper motions and have not been re-filed. Petitioner thereafter filed two separate documents that were each entitled "Notice of Petition (Amended)". However, a closer reading of these documents reveals that they in fact are motions to amend the petition that were not properly filed, and are therefore not technically pending before this Court. In response to petitioner's filings, respondent has served an answer to the petition in which it argues that the proceeding is time barred and, in any event, the underlying determination was appropriate. Hofstra University has submitted a memorandum of law arguing that it has not been properly made a party to this proceeding, and that petitioner should not be permitted to amend his petition.

The Court will first address respondent's contention that this proceeding was untimely commenced and should be dismissed. It is well established that a CPLR Article 78 proceeding must be commenced within four months after the determination to be reviewed becomes final and binding upon the petitioner (see, CPLR 217 [1]). An administrative determination is deemed to be final and binding when an agency has reached a definitive position on an issue and administrative remedies have been exhausted (see, EZ Properties, LLC v City of Plattsburgh, 128 AD3d 1212, 1213 [2015]; Matter of Selective Ins. Co. of Am. v State of NY Workers' Compensation Bd., 102 AD3d 72, 76 [2012]). Notably, a request for reconsideration of a final determination does not toll the four-month Statute of Limitations, even when an agency takes the request under review or engages in negotiations with a petitioner over the administrative determination (see, Lubin v Board of Educ. of City of NY, 60 NY2d 974, 976 [1983]; Goonewardena v Hunter Coll., 40 AD3d 443, 443 [2007]).

Here, respondent's determination became final and binding when OCUE issued its decision dismissing petitioner's complaint on March 8, 2024. Although the record shows that petitioner continued to email OCUE to complain about the determination for several months thereafter, this did not serve to render the March 8, 2024 determination non-final or toll the Statute of Limitations (see, Matter of Pettus v New York State Ins. Dept., 93 AD3d 1067, 1067-1068 [2012], lv denied 19 NY2d 814 [2012]; Matter of Moskowitz v New York City Police Pension Fund, 82 AD3d 473, 472 [2011]). Accordingly, this proceeding commenced seven months later on October 7, 2024 is untimely and must be dismissed on that ground. Even if the Court were to address the merits herein, it would find that OCUE rationally dismissed petitioner's complaint due to his failure to exhaust administrative remedies. Finally, even if petitioner's purported motions to amend the petition were properly before the Court, under the circumstances presented in this case there would be no basis to grant the requested amendment. To the extent that petitioner's arguments have not been specifically addressed, they have been reviewed and found to be without merit.

For the foregoing reasons , it is

ORDERED and ADJUDGED that the requested relief is denied, and the petition is dismissed.

This constitutes the Decision and Order of the Court, the original of which is being transmitted to the Albany County Clerk for electronic filing and entry. Upon such entry, respondent's counsel shall promptly serve notice of entry on all other parties (see, Uniform Rules for Trial Courts [22 NYCRR] § 202.5-b [h] [1], [2]).

SO ORDERED.
ENTER.

Dated: February 14, 2025

HON. CHRISTINA L. RYBA
Supreme Court Justice

02/18/2025