

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

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In the Matter of Application of
JAMIL AKLIL

Petitioner,

-against-

VERIFIED PETITION

CITY OF NEW YORK; STEVEN LINDEN,
in his official capacity as Director of Licensing
at the New York City Department
of Health and Mental Hygiene,

Respondents.

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SUMMARY

Jamil Aklil is a naturalized U.S. citizen originally from Afghanistan who has sold hot dogs and pretzels on the streets of Lower Manhattan for the past fifteen years. On April 7, 2010, he was refused the right to renew his food vending permit for being one week late to submit the required paperwork. In fact, Mr. Aklil *had* submitted his paperwork to the City one month beforehand, and was only late due to the City's own delay in providing him with a simple tax document. Unable to support himself, he now scrapes by with the help of family and friends.

Despite Mr. Aklil and his attorney's repeated pleas for an extension over the past six months, the City refuses to reconsider or even to respond. At the end of his rope, Mr. Aklil has no option but to file this proceeding in hopes he will be granted an extension to renew his permit and resume his vending business.

ALLEGATIONS

As such, Petitioner Jamil Aklil, by his attorney, the Urban Justice Center, for his Verified Petition to this Court, respectfully alleges as follows:

1. Petitioner is a 61 year-old United States citizen and has worked as a mobile food vendor in New York City for approximately fifteen years.

2. Respondent, the City of New York, is an incorporated municipality in the State of New York.

3. Petitioner's most recent mobile food vending permit was valid for two years and expired on March 31, 2010.

4. The Department of Health and Mental Hygiene requires several "clearances" (from the New York City Department of Finance, the New York State Department of Finance, and the New York City Environmental Control Board ("ECB"), respectively) to be submitted with a food vending permit renewal application.

5. On March 4, 2010, Petitioner submitted the required application to obtain his first clearance – the ECB clearance. A copy of the application is attached hereto as Exhibit A. One week later, on March 11, 2010, the ECB mailed Petitioner a bill stating that he owed \$1,000 for a Notice of Violation ("NOV") that was issued in 1994. A copy of this bill is attached hereto as Exhibit B. However, Petitioner had already satisfied this NOV six years prior -- on July 21, 2004. A copy of the satisfaction record is attached hereto as Exhibit C.

6. The morning of March 26, 2010, Petitioner brought the record of satisfaction to the ECB and spoke with customer service representative Crystal Charles regarding the outstanding NOV. Ms. Charles wrote a letter stating that the NOV needed to be written off

and that this should be completed by March 30, 2010. A copy of this letter is attached hereto as Exhibit D.

7. On March 30, Petitioner returned to the ECB and found out that the NOV had not been written off. He was given the names and telephone numbers of two people to call regarding the write-off. A copy of these names and numbers is attached hereto as Exhibit E. Petitioner tried to have the ECB customer service representatives call the numbers but there was no answer. Petitioner left the ECB and returned later and spoke with another customer service representative. The representative informed Petitioner that the clearance would be processed on March 31, 2010. On March 31st, Petitioner attempted to call the ECB regarding the clearance but was unsuccessful. On April 1st, Petitioner went to the ECB and attempted to obtain his clearance but was told to keep calling the numbers he was given on March 30th. Petitioner left the ECB and returned in the afternoon and protested the fact that he had not received his clearance. The clearance was finally generated at 2:17 PM. A copy of the clearance is attached hereto as Exhibit F.

8. Petitioner applied for his second required “clearance” from the New York State Department of Taxation and Finance on March 11, 2010 and received it the very same day. A copy of this clearance is attached hereto as Exhibit G.

9. As for his third and final “clearance” from the New York City Department of Finance, Petitioner produced his required documentation on March 11, 2010. Receiving no response nearly three weeks later and faced with his application deadline, on April 1, 2010 he went to the Department of Finance to inquire. He was told that the “clearance” was not ready. The next day, April 2, 2010, he returned again and was told it was not available. In fact, the

“clearance” had been printed that very same day and was mailed to Petitioner, who did not receive it until April 7, 2010. A copy of the “clearance” is attached hereto as Exhibit H.

10. By that time, Petitioner had already been informed that it was too late to renew his vending permit. Petitioner went (without his required state tax clearance) to the New York City Licensing Center on April 2, 2010. A copy of his waiting number is attached hereto as Exhibit I. Petitioner was informed that he failed to renew his permit by the deadline date. A copy of the computer printout is attached hereto as Exhibit J.

11. On April 6, 2010, Petitioner’s attorney faxed a letter to Mr. Steven Linden, supervisor of permits at the Licensing Center, explaining the situation and requesting an extension for Petitioner to renew his permit. A copy of the fax is attached hereto as Exhibit K. Mr. Linden did not reply to this letter.

12. On April 26, 2010, Petitioner’s attorney sent a follow-up letter to Mr. Linden again asking for an extension. A copy of the letter is attached hereto as Exhibit L. On May 20, 2010, Mr. Linden replied asking for more documentation. A copy of the letter is attached hereto as Exhibit M.

13. On May 28, 2010 Petitioner’s attorney sent a letter to Mr. Linden detailing every step Mr. Aklil went through to attempt to renew his permit and provided supporting documentation. A copy of this letter is attached hereto as Exhibit N. Petitioner’s attorney had not received any reply from Mr. Linden and on August 16, 2010, called to ask if Mr. Linden had made a decision. Mr. Linden’s assistant, Ms. Susan Stambler, informed Petitioner’s attorney that no decision had been made and could not provide any timeframe as to when Petitioner’s case would be decided. Petitioner’s attorney has made several follow-up phone calls to Mr. Linden’s office and has not received any reply regarding this matter.

14. Petitioner's vending business is his sole source of income. Since his permit expired, Petitioner has been supported primarily by his brother. Petitioner lives in his brother's apartment and has no bank account or credit cards. Petitioner owns no house, stocks, or other property. Petitioner currently has approximately \$400 of debt that is owed to the garage where his vending cart is stored. Petitioner has contributed money towards the rent and utilities at his brother's apartment in the past but cannot do so presently because he cannot continue his vending business. Petitioner suffers from medical problems such as high blood pressure, back and leg pain, and has previously taken medication for these ailments. It has been over four months since Petitioner's attorney appealed to Mr. Linden for relief and has received no response.

15. Upon information and belief, the NYC Department of Health and Mental Hygiene ("DOHMH") has not in any way been prejudiced by Petitioner's request for an extension to renew his mobile food vending permit so he may return to work.

16. Defendants' are equitably estopped from preventing Petitioner from renewing his vending permit because of their own error and delay in providing Petitioner the paperwork he needed to file with his application renewal.

17. Defendants' failure to allow Petitioner to renew his mobile food vending permit is arbitrary, capricious, and without rational basis.

WHEREFORE, Petitioner respectfully requests that this Court:

1. Issue an order pursuant to Article 78 of the Civil Practice Law and Rules, directing the NYC DOHMH to expeditiously allow Petitioner to submit his permit renewal application, and renew his mobile food vending permit;
2. Grant him such other and further relief as this court deems proper.

Dated: New York, New York
October 1, 2010

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