

SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. ROY S. MAHON

Justice

RICHARD A. BRUMMEL,  
15 Laurel Lane  
East Hills, NY 11577

TRIAL/IAS PART 5

INDEX NO. 5405/14

Petitioner,

MOTION SEQUENCE  
NO. 2

For a Judgment Pursuant to Article 78, Declaratory  
Relief, and Injunctive Relief under Sections 6311 and  
6313 of the CPLR

MOTION SUBMISSION  
DATE: November 6, 2014

-against-

UNKNOWN "JOHN DOE" as Commissioner of the  
Nassau County, NY Department of Parks, Recreation  
and Museums, et al.,

Respondents,

The following papers read on this motion:

Order to Show Cause  
Verified Answer

X  
X

Upon the foregoing papers the motion by the Respondent, brought by Order to Show Cause, for an Order vacating the Order of June 13, 2014 made upon Respondents' default and, upon vacatuer, dismissing the underlying petition as moot, is determined as hereinafter provided:

In its entirety, the Court's Order dated June 13, 2014 set forth:

"Upon the foregoing papers the Petition by Petitioner, unopposed for an Order declaring the ordinance affecting public assemblies in Nassau County Parks, #265-1970(3)(c) or \_\_\_\_\_ null and void due its unconstitutional burden on the rights of free speech and assembly; declaring Nassau County's unwritten policy of denying permits to political type assemblies or rallies in its parks null and void due to its unconditional interference with the rights of free speech and assembly; enjoining Nassau County from denying a permit or such other license as is just and proper for Petitioner Richard Brummel to hold a rally in Christopher Morley Park on Sunday May 31, 2014 of less than

ten people for a period of one hour commencing at noon located by the dog run in said park and enjoining Nassau County from in any way interfering with said rally, is granted. Lack of opposition is tantamount to consent."

Based upon a June 2, 2014 recusal by the prior Court, the Petition originally returnable to that Court was assigned to this Court. Apparently due to internal inadvertence, the return date to this Court was not the one assigned by the prior Court and the Respondents offered no opposition.

In substance, the Petitioner's Petition sought a permit to hold an environmental rally in Christopher Morley Park against the proposed construction of an air stripper in said park. A review of the respective submissions sets forth that subsequent to the initiation of the Petitioner's proceeding, the Respondent issued a permit to the Petitioner to hold the requested rally. As such, there is no case or controversy for the Court to consider and the Respondents' application for an Order vacating the Order of June 13, 2014 made upon Respondents' default and, upon vacatuer, dismissing the underlying petition as moot, is **granted**.

SO ORDERED.

DATED:

2/10/2015

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J.S.C.