

PRESENT: HON. THOMAS J. McNAMARA  
Acting Justice

STATE OF NEW YORK  
SUPREME COURT COUNTY OF ALBANY

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In the Matter of the Application of  
JAMES COBB,  
Petitioner,

For a Judgment Pursuant to Article 78 of the  
Civil Practice Law & Rules

-against-

STATE DIVISION OF HUMAN RIGHTS,  
Respondents.

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**JUDGMENT**  
Index No.: 7386-06  
RJI No.: 01-06-ST7141

(Supreme Court, Albany County, Article 78 Term)

APPEARANCES: Ms. Jaime Cobb  
*Petitioner, Pro Se*  
1238 Sausse Avenue  
Troy, New York 12180

State Division of Human Rights  
(By: Gina M. Lopez Summa, Esq.)  
*Attorneys for Respondents-State Division of Human Rights*  
One Fordham Plaza, 4<sup>th</sup> Floor  
Bronx, New York 10458

Bond, Schoeneck & King, PLLC  
(By: Joanmarie M. Dowling, Esq.)  
*Attorney for Respondents - The Sage Colleges*  
111 Washington Avenue  
Albany, New York 12210

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McNamara, J.

Petitioner Jaime Cobb brought this proceeding to challenge two determinations of the respondent State Division of Human Rights regarding complaints she made against Russell Sage

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College where she had been a student. In both claims, one filed June 23, 2005 and the other September 2, 2005 Cobb charged violations of the Human Rights Law (Executive Law art. 15) based on unlawful discriminatory practices related to her disability. Respondent made a determination with respect to each claim having concluded in both instances that there was no probable cause to believe that the respondent had engaged in or was engaging in the unlawful discriminatory practices alleged. The determinations of no probable cause were both based on the conclusion that Russell Sage College, as an educational institution, was not bound by the provisions of the Human Rights Law.

In response to the petition, respondent has requested that the determinations be vacated and the matter remanded to it. Respondent maintains that there is evidence in the file supporting both determinations of "no probable cause" but that it incorrectly asserted that Russell Sage College was not covered by the provisions of the Human Rights Law.

The regulations related to complaints made to the Division of Human Rights provide that where an appeal has been taken to court from an order dismissing a case for lack of probable cause, the division may request the court to remand such a case for good cause (9 NYCRR §465.20[a][2]). Based on the admission that the determinations were based on erroneous grounds, there is good cause for vacating the determinations and remanding the complaints to the Division for an appropriate determination.

The determination and order issued on August 30, 2006 in Case No. 10106448 and the determination and order issued on September 11, 2006 in Case No. 10107498 are hereby vacated and the matters are remanded to the Division of Human Rights for appropriate determination.

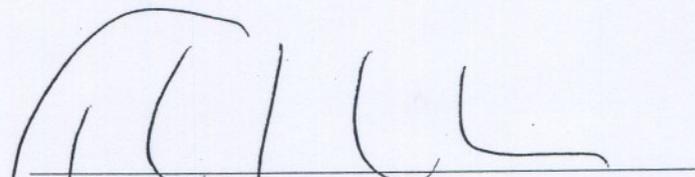
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All papers, including this Judgment, are being returned to respondent's attorney. The signing of this Judgment shall not constitute entry or filing under CPLR 2220. Counsel is not relieved from the applicable provisions of that section respecting filing, entry and notice of entry.

SO ORDERED.

ENTER.

Dated: Saratoga Springs, New York  
March 12, 2007



Thomas J. McNamara  
Acting Supreme Court Justice

Papers Considered:

- 1) Notice of Petition dated October 31, 2006;
- 2) Petition by Jaime Cobb verified on November 1, 2006 with attachments;
- 3) Answer by Respondent, State Division of Human Rights, verified November 17, 2006;
- 4) Answer by Respondent, Sage Colleges, verified November 20, 2006;
- 5) Affidavit of Sharon Murray sworn to November 20, 2006 with exhibits annexed;
- 6) Affirmation of Joanmarie M. Dowling, Esq., dated November 20, 2006 with exhibits annexed;
- 7) Affidavit of Jaime Cobb sworn to November 30, 2006 with exhibit annexed.