

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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ROBERT A. SPOLZINO, J.P.
PETER B. SKELOS
STEVEN W. FISHER
MARK C. DILLON, JJ.

2006-06045

DECISION & JUDGMENT

In the Matter of Robert Palumbo, petitioner,
v Nassau County Supreme Court, et al., respondents.

Mary A. Callaghan, Wantagh, N.Y., for petitioner.

Eliot Spitzer, Attorney-General, New York, N.Y. (Ivan B. Rubin of counsel), for respondents Anthony Marano, Robert Ross, and Marston Gibson.

Vincent F. Nicolosi, Manhasset, N.Y., respondent pro se and for respondent Charleen Rhindress.

Proceeding pursuant to CPLR article 78 in the nature of mandamus, inter alia, to compel the respondents "to immediately set a sum certain according to the terms of prior judgments and orders" entered in an action entitled *Palumbo v Palumbo* pending in the Supreme Court, Nassau County, under Index No. 97-024096.

ADJUDGED that the petition is denied and the proceeding is dismissed, without costs or disbursements.

The extraordinary remedy of mandamus will lie only to compel the performance of a ministerial act and only when there exists a clear legal right to the relief sought (*see Matter of Legal Aid Society of Sullivan County v Scheinman*, 53 NY2d 12, 16). The petitioner has failed to demonstrate a clear legal right to the relief sought.

SPOLZINO, J.P., SKELOS, FISHER and DILLON, JJ., concur.

ENTER:


James Edward Pelzer

October 10, 2006

MATTER OF PALUMBO v NASSAU COUNTY SUPREME COURT

Clerk of the Court

October 10, 2006

MATTER OF PALUMBO v NASSAU COUNTY SUPREME COURT