

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

D12178  
E/mv

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THOMAS A. ADAMS, J.P.  
PETER B. SKELOS  
STEVEN W. FISHER  
JOSEPH COVELLO, JJ.

2006-07352

DECISION, ORDER & JUDGMENT

In the Matter of DeAndre Williams, petitioner,  
v Barbara G. Zambelli, etc., respondent.

DeAndre Williams, Malone, N.Y., petitioner pro se.

Eliot Spitzer, Attorney-General, New York, N.Y. (Constantine A. Speres of counsel),  
for respondent.

Proceeding pursuant to CPLR article 78 in the nature of prohibition to prohibit the respondent Barbara G. Zambelli, a Justice of the Supreme Court, Kings County, from deciding certain motions pursuant to CPL 440, and application for poor person relief. Motion by the respondent to dismiss the proceeding.

ORDERED that the motion is denied; and it is further,

ORDERED that the application for poor person relief is granted to the extent that the filing fee imposed by CPLR 8022(b) is waived, and the application is otherwise denied; and it is further,

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

"Because of its extraordinary nature, prohibition is available only where there is a clear legal right, and then only when a court - in cases where judicial authority is challenged - acts or threatens to act either without jurisdiction or in excess of its authorized powers" (*Matter of Holtzman*)

October 10, 2006

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*v Goldman*, 71 NY2d 564, 569; see *Matter of Rush v Mordue*, 68 NY2d 348, 352). The petitioner has failed to demonstrate a clear legal right to the relief sought.

ADAMS, J.P., SKELOS, FISHER and COVELLO, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style with a large initial "J".

James Edward Pelzer  
Clerk of the Court