

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

D12400  
Y/hu

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HOWARD MILLER, J.P.  
GABRIEL M. KRAUSMAN  
ROBERT A. SPOLZINO  
ROBERT A. LIFSON, JJ.

2006-05924

DECISION, ORDER & JUDGMENT

In the Matter of Nadene Green, petitioner,  
v Valentino T. Sammarco, etc., et al., respondents.

Nadene Green, Hyde Park, N.Y., petitioner pro se.

Eliot Spitzer, Attorney-General, New York, N.Y. (Lisa Ghartey of counsel), for respondent Valentino T. Sammarco.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Kirsten A. Rappleyea of counsel), respondent pro se.

Proceeding pursuant to CPLR article 78 in the nature of mandamus, inter alia, to compel the respondent Valentino T. Sammarco, an Acting Judge of the County Court, Dutchess County, to vacate an order of that court dated August 10, 2005, in an action entitled *People v Green* pending under Indictment No. 92-00075, and application by the petitioner for poor person relief.

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.

October 31, 2006

MATTER OF GREEN v SAMMARCO

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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.

MILLER, J.P., KRAUSMAN, SPOLZINO and LIFSON, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court