

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

D14834
Y/cb

_____AD3d_____

STEPHEN G. CRANE, J.P.
ANITA R. FLORIO
STEVEN W. FISHER
THOMAS A. DICKERSON, JJ.

2007-00446

DECISION & JUDGMENT

In the Matter of Steven Herrera, petitioner, v Ronald
Hollie, etc., et al., respondents.

Sandra Perez, Kew Gardens, N.Y., for petitioner.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (William H. Branigan of
counsel), respondent pro se.

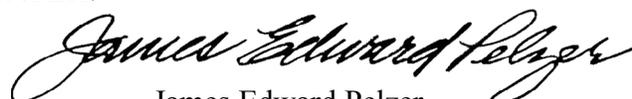
Proceeding pursuant to CPLR article 78 in the nature of prohibition, to prohibit the
respondents from proceeding with the retrial of the petitioner, Steven Herrera, who is the defendant
in a criminal action entitled *People v Herrera*, pending in the Supreme Court, Queens County, under
Indictment No. 2867/04.

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
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.

CRANE, J.P., FLORIO, FISHER and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

April 24, 2007

MATTER OF HERRERA v HOLLIE