

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

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_____AD3d_____

ANITA R. FLORIO, J.P.
STEVEN W. FISHER
EDWARD D. CARNI
WILLIAM E. McCARTHY, JJ.

2007-02925

DECISION & JUDGMENT

In the Matter of Lior A. (Anonymous), et al.,
petitioners, v John M. Galasso, et al.,
respondents.

Lior A. and Dov A., Jericho, N.Y., petitioners pro se.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Monica A. Connell of
counsel), for respondents.

Proceeding pursuant to CPLR article 78 in the nature of prohibition and mandamus, inter alia, to compel the respondent John M. Galasso, a Justice of the Supreme Court, Nassau County, to vacate certain orders issued pursuant to CPL 330.20 and to prohibit the respondents from seeking any additional orders pursuant to CPL 330.20.

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). Similarly, 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).

June 12, 2007

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MATTER OF A. (ANONYMOUS) v GALASSO

The petitioners have failed to demonstrate a clear legal right to the relief sought.

FLORIO, J.P., FISHER, CARNI and McCARTHY, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court