

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

D15586
O/gts

_____AD3d_____

REINALDO E. RIVERA, J.P.
GLORIA GOLDSTEIN
PETER B. SKELOS
RUTH C. BALKIN, JJ.

2007-02309

DECISION, ORDER & JUDGMENT

In the Matter of Gary Menard, petitioner,
v Barbara L. Gionta, etc., et al., respondents.

William A. Gerard, Palisades, N.Y., for petitioner.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Constantine A. Speres of counsel), for respondents Barbara L. Gionta and Victor J. Alfieri.

Patricia Zugibe, County Attorney, New City, N.Y. (Michael P. O'Connor of counsel), for respondent Charlie Lowther.

Proceeding pursuant to CPLR article 78 in the nature of mandamus, inter alia, to direct the respondents to reinstate the petitioner's pistol license.

Motion by the respondents Barbara L. Gionta and Victor J. Alfieri, and separate motion by the respondent Charlie Lowther, to dismiss the proceeding insofar as asserted against them.

ORDERED that the motions are granted; and it is further,

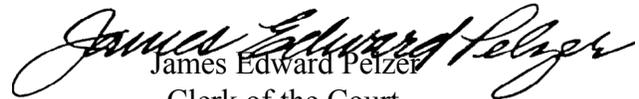
ADJUDGED that the petition is denied and the proceeding is dismissed, without costs or disbursements.

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.

RIVERA, J.P., GOLDSTEIN, SKELOS and BALKIN, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court