

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

D16263
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_____AD3d_____

HOWARD MILLER, J.P.
FRED T. SANTUCCI
ANITA R. FLORIO
MARK C. DILLON, JJ.

2007-07459

DECISION, JUDGMENT & ORDER

In the Matter of Diane Word, petitioner,
v New York State Department of Correctional
Services, respondent.

Diane Word, Bedford Hills, N.Y., petitioner pro se.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Charles F. Sanders of
counsel), for respondent.

Proceeding pursuant to CPLR article 78 in the nature of mandamus, inter alia, to
compel Barbara G. Zambelli, a Justice of the Supreme Court, Westchester County, to give “due
process review” to the petitioner’s motion to renew and reargue her petition to review the
respondent’s determination to not ban smoking in all areas of the prison, 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 proceeding is dismissed, without costs or disbursements.

The petitioner failed to join Justice Zambelli, a necessary party, to the proceeding (*see*
CPLR 1001).

MILLER, J.P., SANTUCCI, FLORIO and DILLON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

September 25, 2007

MATTER OF WORD v NEW YORK STATE DEPARTMENT
OF CORRECTIONAL SERVICES