

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

D16609
G/kmg

_____AD3d_____

Submitted - September 20, 2007

STEPHEN G. CRANE, J.P.
ANITA R. FLORIO
EDWARD D. CARNI
WILLIAM E. McCARTHY, JJ.

2007-03561

DECISION & JUDGMENT

In the Matter of Wayne Prospect, petitioner, v
Robert W. Doyle, etc., et al., respondents.

Christopher J. Cassar, P.C., Huntington, N.Y., for petitioner.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Thomas C. Costello of
counsel), respondent pro se.

Proceeding pursuant to CPLR article 78 in the nature of a prohibition to prohibit the
respondents from proceeding with a criminal action entitled *People v Prospect*, pending under Suffolk
County Indictment No. 2011-06, on the ground of lack of geographic jurisdiction.

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; *Matter of Steingut
v Gold*, 42 NY2d 311, 315-316). The petitioner has failed to demonstrate a clear right to the relief
sought (*see Matter of Norman v Hynes*, 20 AD3d 125, 136; *Matter of Santorelli v Cowhey*, 247
AD2d 392; *Matter of Arcuri v Kirk*, 231 AD2d 962, 963; *Matter of Sanchez v Orgera*, 221 AD2d
641; *cf. Matter of Steingut v Gold*, 42 NY2d at 315-316).

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

ENTER:



James Edward Pelzer
Clerk of the Court

October 16, 2007

MATTER OF PROSPECT v DOYLE