

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

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_____AD3d_____

ROBERT A. SPOLZINO, J.P.
GABRIEL M. KRAUSMAN
STEVEN W. FISHER
DANIEL D. ANGIOLILLO, JJ.

2007-05921

DECISION, ORDER & JUDGMENT

In the Matter of David Brown, petitioner,
v Glenn S. Goord, etc., et al., respondents.

David Brown, Pine City, N.Y., petitioner pro se.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Andrew Meier of
counsel), for respondent Glenn S. Goord.

Proceeding pursuant to CPLR article 78 in the nature of mandamus, inter alia, to
compel the New York State Department of Correctional Services to make certain sentences imposed
upon the petitioner run concurrently, 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 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.

SPOLZINO, J.P., KRAUSMAN, FISHER and ANGIOLILLO, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

November 7, 2007

MATTER OF BROWN v GOORD