

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

D17408
O/nl

_____AD3d_____

Argued - November 15, 2007

DAVID S. RITTER, J.P.
ANITA R. FLORIO
HOWARD MILLER
MARK C. DILLON, JJ.

2006-10973

DECISION & ORDER

Sidney G. Greer, Jr., appellant, v John C. Garito,
etc., defendant, Jessica Segal, etc., et al., respondents.

(Index No. 4825/01)

Sidney G. Greer, Jr., Hopewell Junction, N.Y., appellant pro se.

Kelly & Meenagh, Poughkeepsie, N.Y. (John P. Meenagh, Jr., of counsel), for
respondents.

In an action, inter alia, alleging violations of the State and Federal Constitutions arising out of the arrest and prosecution of the plaintiff for violations of the Vehicle and Traffic Law, the plaintiff appeals from an order of the Supreme Court, Dutchess County (Pagones, J.), dated November 1, 2006, which, upon his failure to comply with a decision and order of this Court dated March 21, 2006 (*see Greer v Garito*, 27 AD3d 617), granted those branches of the cross motion of the defendants Jessica Segal, Kathy Handkamp, Dutchess County Office of Probation, Dutchess County District Attorney's Office, and Dutchess County Correction Facility, which were for summary judgment dismissing the complaint and to dismiss the complaint pursuant to CPLR 3211 insofar as asserted against them, and denied his motion pursuant to CPLR 3124 to compel disclosure.

ORDERED that the order is affirmed, with costs.

The Supreme Court properly granted that branch of the cross motion of the defendants Jessica Segal, an Assistant District Attorney, Dutchess County, Kathy Handkamp, Dutchess County Office of Probation, Dutchess County District Attorney's Office, and Dutchess County Correction Facility (hereinafter collectively the County defendants), dated October 9, 2006, which was to dismiss

the complaint insofar as asserted against them pursuant to CPLR 3211. The County defendants demonstrated that the plaintiff failed to comply with a conditional order of this Court dated March 21, 2006 (*see Greer v Garito*, 27 AD3d 617), as he did not appear for his rescheduled deposition and failed to file a note of issue and certificate of readiness. Moreover, the County defendants demonstrated, prima facie, their entitlement to summary judgment dismissing the complaint insofar as asserted against them and the plaintiff failed to raise a triable issue of fact in opposition (*see Alvarez v Prospect Hosp.*, 68 NY2d 320; *Zuckerman v City of New York*, 49 NY2d 557).

The plaintiff's remaining contentions are without merit or have been rendered academic in light of our determination.

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

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court