

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

D18848  
W/kmg

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ROBERT A. SPOLZINO, J.P.  
HOWARD MILLER  
JOSEPH COVELLO  
RUTH C. BALKIN, JJ.

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2005-08886

DECISION & JUDGMENT

In the Matter of Kevin McKeown,  
petitioner, v Gerald E. Loehr, respondent.

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Kevin McKeown, New York, N.Y., petitioner pro se.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Susan Anspach of counsel),  
for respondent.

Proceeding pursuant to CPLR article 78 in the nature of, inter alia, mandamus to  
compel the respondent, Gerald E. Loehr, the Acting Surrogate, Westchester County, to vacate stated  
portions of an order dated November 2, 2007, entered in a proceeding in the Surrogate's Court,  
Westchester County, entitled *Matter of McKeown*, pending under File No. 2239/03.

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 (*see People v Rodriguez*, 95 NY2d 497, 501-502).

The petitioner's remaining contention is without merit.

SPOLZINO, J.P., MILLER, COVELLO and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

April 8, 2008

MATTER OF McKEOWN v LOEHR