

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

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HOWARD MILLER, J.P.
MARK C. DILLON
RUTH C. BALKIN
WILLIAM E. McCARTHY, JJ.

2008-02481

DECISION, ORDER & JUDGMENT

In the Matter of William F. Bankhead, etc.,
petitioner, v Julie Maya Stoil-Fernandez,
et al., respondents.

William F. Bankhead, Brooklyn, N.Y., petitioner pro se.

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

Proceeding pursuant to CPLR article 78 in the nature of mandamus to compel, among others, the respondent Yvonne Lewis, a Justice of the Supreme Court, Kings County, to recuse herself from presiding in an underlying proceeding entitled *Matter of Linda B.* pending in that court under Index No. 100270/03. Application by the petitioner to prosecute this proceeding as a poor person.

ORDERED that the application to prosecute this proceeding as a poor person is granted to the extent that the filing fee imposed by CPLR 8022(b) is waived, and the application is otherwise denied as academic; 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

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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.

MILLER, J.P., DILLON, BALKIN and McCARTHY, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer". The signature is written in black ink and is positioned to the right of the word "ENTER:".

James Edward Pelzer
Clerk of the Court