

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

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STEVEN W. FISHER, J.P.  
ANITA R. FLORIO  
EDWARD D. CARNI  
CHERYL E. CHAMBERS, JJ.

2008-07607

DECISION, ORDER & JUDGMENT

In the Matter of Gregory Webb, petitioner, v  
Sheldon Greenberg, etc., et al., respondents.

Gregory Webb, Stormville, N.Y., petitioner pro se.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Michael J. Keane of  
counsel; Christina Okereke on the brief), for respondents.

Proceeding pursuant to CPLR article 78 in the nature of mandamus, inter alia, to compel the respondent Sheldon Greenberg, a Judge of the Criminal Court of the City of New York, Kings County, to furnish him with a certified copy of the minutes of the sentencing hearing in connection with a criminal action entitled *People v Webb*, commenced in the Criminal Court of the City of New York, Kings County, under Indictment No. 15290/95. 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 proceeding is dismissed, without costs or disbursements.

This Court does not have original subject matter jurisdiction to entertain this proceeding, as no “justice of the supreme court or . . . judge of [the] county court or the court of general sessions” was named as a respondent (CPLR 506[b][1]). Since subject matter jurisdiction

cannot be waived, the proceeding must be dismissed (*see Matter of Nolan v Lungen*, 61 NY2d 788; *Matter of Hamilton v Brown*, 54 AD3d 760; CPLR 7804[b]; *cf. Matter of Law Offs. of Andrew F. Capoccia v Spitzer*, 270 AD2d 643, 644 n 2).

FISHER, J.P., FLORIO, CARNI and CHAMBERS, 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