

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

D23644
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REINALDO E. RIVERA, J.P.
MARK C. DILLON
RUTH C. BALKIN
LEONARD B. AUSTIN, JJ.

2009-02893

DECISION, ORDER & JUDGMENT

In the Matter of Frank Graham, petitioner, v
Sheryl Parker, etc., respondent.

Frank Graham, Sonyea, N.Y., petitioner pro se.

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

Proceeding pursuant to CPLR article 78 in the nature of mandamus to compel the respondent, Sheryl Parker, a Justice of the Supreme Court, Kings County, to determine the petitioner's motion pursuant to CPL 440 in an underlying criminal action entitled *People v Graham*, pending the Supreme Court, Kings County, under Indictment No. 2459/78, 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 dismissed as academic, without costs or disbursements.

In an order of the Supreme Court, Kings County, dated May 15, 2009, Justice Parker determined the petitioner's motion pursuant to CPL 440 in the underlying criminal action. Therefore, the instant proceeding has been rendered academic.

RIVERA, J.P., DILLON, BALKIN and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

June 23, 2009

MATTER OF GRAHAM v PARKER