

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

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PETER B. SKELOS, J.P.
JOHN M. LEVENTHAL
L. PRISCILLA HALL
LEONARD B. AUSTIN, JJ.

2009-05774

DECISION & JUDGMENT

In the Matter of Marcel Bristol, petitioner, v
David P. Sullivan, etc., et al., respondents.

Marcel Bristol, East Meadow, N.Y., petitioner pro se.

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

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Robert A. Schwartz and Barbara Kornblau of counsel), respondent pro se.

Proceeding pursuant to CPLR article 78 in the nature of prohibition to prohibit the respondents from proceeding with a criminal action entitled *People v Bristol*, pending in the County Court, Nassau County, under Indictment No. 2346/08.

ADJUDGED that the petition is denied and the proceeding is dismissed on the merits, without costs or disbursements.

“Because of its extraordinary nature, prohibition is available only where there is a clear legal right, and then only when a court-in cases where judicial authority is challenged-acts or threatens to act either without jurisdiction or in excess of its authorized powers” (*Matter of Holtzman v Goldman*, 71 NY2d 564, 569; see *Matter of Rush v Mordue*, 68 NY2d 348, 352; *Matter of Barton v Griffin*, 59 AD3d 615).

SKELOS, J.P., LEVENTHAL, HALL and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

September 22, 2009

MATTER OF BRISTOL v SULLIVAN