

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

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_____AD3d_____

MARK C. DILLON, J.P.
RANDALL T. ENG
ARIEL E. BELEN
L. PRISCILLA HALL, JJ.

2009-08312

DECISION & JUDGMENT

In the Matter of Barbara Sheehan, petitioner, v
Arthur J. Cooperman, etc., et al., respondents.

Michael G. Dowd, New York, N.Y. (Niall Mac Giollabhui of counsel), for petitioner.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (Donna Aldea of counsel),
respondent pro se.

Proceeding pursuant to CPLR article 78 in the nature of prohibition, inter alia, to prohibit the enforcement of an order of the Supreme Court, Queens County, dated June 30, 2009, in an underlying criminal action entitled *People v Sheehan*, pending under Queens County Indictment No. 1124/08.

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

The extraordinary writ of prohibition is available only where there exists a clear legal right, and only in those cases where a court acts or threatens to act in excess of its authorized powers (see *Matter of Holtzman v Goldman*, 71 NY2d 564, 569; *Matter of Rush v Mordue*, 68 NY2d 348, 353). It is never available “merely to correct or prevent trial errors of substantive law or procedure, however grievous” (*LaRocca v Lane*, 37 NY2d 575, 579, cert denied 424 US 968), nor is it available if there exists an adequate remedy by way of appeal or otherwise (see *Matter of Molea v Marasco*, 64 NY2d 718, 720; *Matter of Morgenthau v Erlbaum*, 59 NY2d 143, cert denied 464 US 993).

DILLON, J.P., ENG, BELEN and HALL, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 20, 2009

MATTER OF SHEEHAN v COOPERMAN