

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

D24891
G/kmg

_____AD3d_____

STEVEN W. FISHER, J.P.
JOSEPH COVELLO
THOMAS A. DICKERSON
PLUMMER E. LOTT, JJ.

2009-07616

DECISION, ORDER & JUDGMENT

In the Matter of James Pettus, petitioner, v Justices of
Kings County and Supreme Court, respondents.

James Pettus, Pine City, N.Y., petitioner pro se.

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

Proceeding pursuant to CPLR article 78 in the nature of mandamus to compel a
Justice of the Supreme Court, Kings County, to accept for filing the summons and complaint in an
action entitled *Pettus v City of New York*, under Index No. 21369/07, without payment of the filing
fee, 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 denied and the proceeding is dismissed, without costs
or disbursements.

The extraordinary remedy of mandamus will lie only to compel the performance of a
ministerial act and only when there exists a clear legal right to the relief sought (*see Matter of Legal
Aid Socy. of Sullivan County v Scheinman*, 53 NY2d 12, 16). The petitioner has failed to
demonstrate a clear legal right to the relief sought.

FISHER, J.P., COVELLO, DICKERSON and LOTT, JJ., concur.

ENTER:



James Edward Pelzer

Clerk of the Court

November 4, 2009

MATTER OF PETTUS v JUSTICES OF KINGS COUNTY AND SUPREME COURT