

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

D27048  
Y/hu

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JOSEPH COVELLO, J.P.  
FRED T. SANTUCCI  
HOWARD MILLER  
RANDALL T. ENG, JJ.

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2009-09514

DECISION, ORDER & JUDGMENT

In the Matter of Javon Dowling, petitioner, v  
Danny K. Chun, et al., respondents.

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Javon Dowling, East Elmhurst, N.Y., petitioner pro se.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Charles F. Sanders of  
counsel), for respondent Danny K. Chun.

Proceeding pursuant to CPLR article 78, inter alia, in the nature of prohibition to bar  
the trial of the petitioner in an action entitled *People v Dowling*, pending in the Supreme Court, Kings  
County, under Indictment No. 10116/07, and application 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 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*)

April 20, 2010

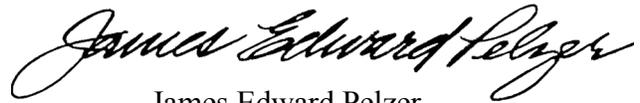
Page 1.

MATTER OF DOWLING v CHUN

*v Goldman*, 71 NY2d 564, 569; see *Matter of Rush v Mordue*, 68 NY2d 348, 352). The petitioner here has failed to demonstrate a clear legal right to the relief sought.

COVELLO, J.P., SANTUCCI, MILLER and ENG, 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