

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

D28768
H/kmg

_____AD3d_____

REINALDO E. RIVERA, J.P.
JOSEPH COVELLO
FRED T. SANTUCCI
SANDRA L. SGROI, JJ.

2010-07888

DECISION, ORDER & JUDGMENT

In the Matter of James Pettus, petitioner, v
Abraham Gerges, etc., respondent.

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

Andrew M. Cuomo, Attorney General, New York, N.Y. (Charles F. Sanders and
Michael J. Siudzinski of counsel), for respondent.

Proceeding pursuant to CPLR article 78 in the nature of mandamus, inter alia, to compel the respondent, Abraham Gerges, a Justice of the Supreme Court, Kings County, to “verify and stand by his signature” on an arrest warrant in a case entitled *People v Pettus*, pending in the Supreme Court, Kings County, under Indictment No. 6013/02, 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 Society of Sullivan County v Scheinman*, 53 NY2d 12, 16). The petitioner has failed to

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demonstrate a clear legal right to the relief sought.

RIVERA, J.P., COVELLO, SANTUCCI and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court