

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

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_____AD3d_____

PETER B. SKELOS, J.P.
THOMAS A. DICKERSON
ARIEL E. BELEN
PLUMMER E. LOTT, JJ.

2010-11383

DECISION & JUDGMENT

In the Matter of Arthur Cockett, petitioner, v Richard Ambro, etc., et al., respondents.

Alice A. Nicholson, Brooklyn, N.Y., for petitioner.

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

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Grazia DiVincenzo and Marc Lindemann 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 Cockett*, pending in the Supreme Court, Suffolk County, under Indictment No. 769B/09.

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). The petitioner has failed to demonstrate a clear legal right to the relief sought.

SKELOS, J.P., DICKERSON, BELEN and LOTT, JJ., concur.

ENTER:



Matthew G. Kiernan
Clerk of the Court

December 28, 2010

MATTER OF COCKETT v AMBRO