

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

D30713  
H/kmb

\_\_\_\_\_AD3d\_\_\_\_\_

WILLIAM F. MASTRO, J.P.  
ANITA R. FLORIO  
ARIEL E. BELEN  
LEONARD B. AUSTIN, JJ.

2011-02336

DECISION & JUDGMENT

In the Matter of Vincent J. Wiscovitch, petitioner,  
v Frank A. Gulotta, Jr., etc., respondent.

Vincent J. Wiscovitch, East Meadow, N.Y., petitioner pro se.

Eric T. Schneiderman, Attorney General, New York, N.Y. (Charles F. Sanders of  
counsel), for respondent.

Proceeding pursuant to CPLR article 78 in the nature of mandamus to compel Frank  
A. Gulotta, Jr., a Justice of the Supreme Court, Nassau County, to “discharge” the petitioner from  
a grand jury panel.

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  
demonstrate a clear legal right to the relief sought.

MASTRO, J.P., FLORIO, BELEN and AUSTIN, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court

March 22, 2011

MATTER OF WISCOVITCH v GULOTTA