

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

D32002
C/kmb

_____AD3d_____

REINALDO E. RIVERA, J.P.
PETER B. SKELOS
SANDRA L. SGROI
ROBERT J. MILLER, JJ.

2010-07890

DECISION, ORDER & JUDGMENT

In the Matter of Erwin Jackson, petitioner,
v Jerald Carter, etc., respondent.

Erwin Jackson, Elmira, N.Y., petitioner pro se.

Eric T. Schneiderman, Attorney General, New York, N.Y. (Roberta L. Martin of
counsel), for respondent.

Proceeding pursuant to CPLR article 78 in the nature of prohibition to prohibit the respondent, Jerald Carter, an Acting Justice of the Supreme Court, Nassau County, from enforcing a judgment rendered against the petitioner on October 26, 2009, in an action entitled *People v Jackson*, under Nassau County Indictment No. 2826/05, 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 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*)

July 5, 2011

Page 1.

MATTER OF JACKSON v CARTER

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

RIVERA, J.P., SKELOS, SGROI and MILLER, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court