

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

D35433
G/kmb

_____AD3d_____

PETER B. SKELOS, J.P.
THOMAS A. DICKERSON
SHERI S. ROMAN
ROBERT J. MILLER, JJ.

2012-04037

DECISION & JUDGMENT

In the Matter of Marat Martynov, petitioner, v
John G. Ingram, etc., et al., respondents.

Douglas G. Rankin, P.C., Brooklyn, N.Y., for petitioner.

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Ann Bordley and Cyril Thomas of counsel), respondent pro se.

Proceeding pursuant to CPLR article 78, inter alia, in the nature of prohibition to prohibit John G. Ingram, a Justice of the Supreme Court, Kings County, from enforcing an order dated March 6, 2012, in a criminal action entitled *People v Martynov*, pending in the Supreme Court, Kings County, under Indictment No. 199/10, which disqualified the petitioner's attorney as defense counsel in that action.

ADJUDGED that the petition is denied and the proceeding is dismissed, 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 extraordinary remedy of a writ of prohibition does not lie to seek collateral

June 27, 2012

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review of the issue of disqualification of the petitioner's attorney (see *Matter of Lipari v Owens*, 70 NY2d 731, 733; *Matter of Murray v Hudson*, 43 AD3d 936).

SKELOS, J.P., DICKERSON, ROMAN and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court