

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

D36844
T/hu

_____AD3d_____

MARK C. DILLON, J.P.
RUTH C. BALKIN
CHERYL E. CHAMBERS
ROBERT J. MILLER, JJ.

2011-10269

DECISION, ORDER & JUDGMENT

In the Matter of Aaron Nelson, petitioner, v Michael
Brennan, etc., et al., respondents.

Aaron Nelson, Gowanda, N.Y., petitioner pro se.

Eric T. Schneiderman, Attorney General, New York, N.Y. (Michael J. Keane of
counsel), for respondents.

Proceeding pursuant to CPLR article 78, inter alia, in the nature of prohibition to
prohibit the respondents from enforcing a resentence of the Supreme Court, Kings County, imposed
December 12, 2008, in a criminal action entitled *People v Nelson*, under Kings County Indictment
No. 6891/01, 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 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.

December 19, 2012

Page 1.

MATTER OF NELSON v BRENNAN

DILLON, J.P., BALKIN, CHAMBERS and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court