

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

D54664
N/htr

_____AD3d_____

WILLIAM F. MASTRO, J.P.
RUTH C. BALKIN
JEFFREY A. COHEN
COLLEEN D. DUFFY, JJ.

2017-11813

DECISION, ORDER & JUDGMENT

In the Matter of Josh Brown, petitioner,
v Barry Kron, etc., respondent.

Josh Brown, Alden, NY, petitioner pro se.

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

Proceeding pursuant to CPLR article 78 in the nature of prohibition, inter alia, to prohibit Barry Kron, an Acting Justice of the Supreme Court, Queens County, from presiding over any further proceedings in a criminal action against the petitioner under Queens County Indictment No. 2349/04, 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).

February 21, 2018

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

MASTRO, J.P., BALKIN, COHEN and DUFFY, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court