

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

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REINALDO E. RIVERA, J.P.
MARK C. DILLON
JEFFREY A. COHEN
ANGELA G. IANNACCI, JJ.

2018-00959

DECISION, ORDER & JUDGMENT

In the Matter of Theodore Edwards, petitioner, v
Nicholas DeRosa, etc., respondent.

Theodore Edwards, Ossining, NY, petitioner pro se.

Barbara D. Underwood, Attorney General, New York, NY (Jonathan D. Conley of
counsel), for respondent.

Proceeding pursuant to CPLR article 78, inter alia, in the nature of prohibition to prohibit the respondent from enforcing a judgment of conviction in an underlying criminal action entitled *People v Edwards*, rendered December 14, 2017, commenced in the County Court, Orange County, under Indictment No. 16-209, and any orders issued in connection with the indictment, 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 failed to demonstrate a clear legal right to the relief sought.

RIVERA, J.P., DILLON, COHEN and IANNACCI, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

September 26, 2018

MATTER OF EDWARDS v DeROSA