

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

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WILLIAM F. MASTRO, J.P.
JOHN M. LEVENTHAL
ROBERT J. MILLER
SYLVIA O. HINDS-RADIX
ANGELA G. IANNACCI, JJ.

2018-08005

DECISION, ORDER & JUDGMENT

In the Matter of Sean Dupree, petitioner,
v Judge Rooney, respondent.

Sean Dupree, Brooklyn, NY, petitioner pro se.

Barbara D. Underwood, Attorney General, New York, NY (Charles F. Sanders of counsel), for respondent.

Proceeding pursuant to CPLR article 78 in the nature of mandamus, inter alia, to compel the respondent, Honorable Stephen Rooney, an Acting Justice of the Supreme Court, Richmond County, to determine the petitioner's motion in an action entitled *People v Dupree*, pending in that court under Indictment No. 2010/18, and application by the petitioner for poor person relief.

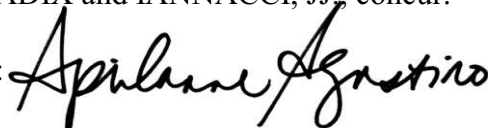
ORDERED that the application for poor person relief is granted to the extent that the filing fee imposed by CPLR 8022(b) is waived, and the application is otherwise denied; and it is further,

ADJUDGED that the petition is denied and the proceeding is dismissed on the merits, without costs or disbursements.

The extraordinary remedy of mandamus will lie only to compel the performance of a ministerial act, and only where there exists a clear legal right to the relief sought (*see Legal Aid Socy. of Sullivan County, Inc. v Scheinman*, 53 NY2d 12, 16). The petitioner failed to demonstrate a clear legal right to the relief sought.

MASTRO, J.P., LEVENTHAL, MILLER, HINDS-RADIX and IANNACCI, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

September 19, 2018

MATTER OF DUPREE v ROONEY