

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

D57017  
M/htr

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SHERI S. ROMAN, J.P.  
SANDRA L. SGROI  
JOSEPH J. MALTESE  
HECTOR D. LASALLE, JJ.

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2018-10237

DECISION, ORDER & JUDGMENT

In the Matter of Christopher Johnson, petitioner, v  
Justices of the Supreme Court Kings County, et al.,  
respondents.

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Bernard H. Udell, Brooklyn, NY, for petitioner.

Eric Gonzalez, District Attorney, Brooklyn, NY (Leonard Joblove, Victor Barall,  
Ann Bordley, and Howard Jackson of counsel), respondent pro se.

Proceeding pursuant to CPLR article 78 in the nature of prohibition to prohibit the  
respondents from prosecuting the petitioner for murder in the second degree under count three of  
Indictment No. 7949/12 at a new trial in a criminal action entitled *People v Johnson*, pending in the  
Supreme Court, Kings County, 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.

ROMAN, J.P., SGROI, MALTESE and LASALLE, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court

October 24, 2018

MATTER OF JOHNSON v JUSTICES OF THE SUPREME COURT KINGS COUNTY