

**Matter of the Application of John Mingo, for a Judgment
Pursuant to Art. 78 of the Civ. Practice Law & Rules v
Records Access Off. of the N.Y. County Dist. Attorney's
Office**

Motion No: 2023-03743

Slip Opinion No: 2023 NY Slip Op 74823(U)

Decided on October 10, 2023

Appellate Division, First Department, Motion Decision

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Judiciary Law § 431.

This motion is uncorrected and is not subject to publication in the
Official Reports.

Supreme Court of the State of New York
Appellate Division, First Judicial Department

PRESENT: Hon. Barbara R. Kapnick,
 Cynthia S. Kern
 Martin Shulman
 Julio Rodriguez III
 John R. Higgitt,

Justice Presiding,

Justices.

In the Matter of the Application of

John Mingo,
 Petitioner-Appellant,

Motion No. 2023-03743
Index No. 100371/22
Case No. 2022-04890

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules,

-against-

Records Access Office of The New York
County District Attorney's Office,
 Respondent-Respondent.

An order of this Court having been entered on January 10, 2023 (Motion No. 2022-04345) deeming petitioner's motion "to appeal pursuant [to] CPLR § 5515" as one seeking leave to appeal to this Court from an order of the Supreme Court, New York County, entered on or about August 08, 2022, granting leave pursuant to CPLR 5520(b) and deeming the moving papers filed a timely filed notice of appeal, and denying, with leave to renew, that part of the motion by which petitioner sought to prosecute the appeal as a poor person, to the extent petitioner sought to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related civil poor person privileges, but not to the extent petitioner sought assignment of counsel, upon petitioner's submission of a notarized affidavit, pursuant to CPLR 1101,

And petitioner-appellant having moved to renew the aforesaid motion for poor person relief in accordance with the aforesaid order of this Court, and for an extension of time to perfect the appeal,

Now, upon reading and filing the papers with respect to said motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of deeming the motion as one seeking leave to vacate the dismissal of the appeal, vacating the dismissal, reinstating the aforesaid appeal, and extending the time in which to perfect same to the March 2024 Term of this Court, and

It is further ordered that the branch of the motion which seeks renewal to prosecute the appeal as a poor person is granted to the extent of permitting the appeal to be heard on the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the attorney for respondent and files with this Court an original, and five hard copies, and if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division. Appellant is permitted to dispense with payment of the required fee for the subpoena and filing of the record.

ENTERED: October 10, 2023



Susanna Molina Rojas
Clerk of the Court