

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

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KS

_____AD3d_____

REINALDO E. RIVERA, J.P.
JEFFREY A. COHEN
SYLVIA O. HINDS-RADIX
ANGELA G. IANNACCI, JJ.

2020-06660

DECISION, ORDER & JUDGMENT

In the Matter of Johnathan Johnson, petitioner,
v Timothy J. Dufficy, etc., et al., respondents.

Johnathan Johnson, Malone, NY, petitioner pro se.

Letitia James, Attorney General, New York, NY (Charles F. Sanders of counsel), for
respondent Timothy J. Dufficy.

Melinda Katz, District Attorney, Kew Gardens, NY (Eunice Villantoy of counsel),
respondent pro se.

Proceeding pursuant to CPLR article 78 in the nature of mandamus to compel the
respondent Timothy J. Dufficy, a Justice of the Supreme Court, Queens County, to determine a
motion purportedly filed by the petitioner in a proceeding entitled *Matter of Johnson v Ryan*,
commenced in that court under Index No. 005085/2019, 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 as academic;
and it is further,

ADJUDGED that the proceeding is dismissed, 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 Matter of
Legal Aid Socy. of Sullivan County v Scheinman*, 53 NY2d 12, 16). The petitioner has failed to
demonstrate a clear legal right to the relief sought.

RIVERA, J.P., COHEN, HINDS-RADIX and IANNACCI, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

November 12, 2020

MATTER OF JOHNSON v DUFFICY