

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

M72580
E/sl

PETER B. SKELOS, J.P.
DAVID S. RITTER
ANITA R. FLORIO
EDWARD D. CARNI, JJ.

2008-00243

DECISION & ORDER ON MOTION

In the Matter of Marcelino Garcia, petitioner,
v Brian Fischer, etc., respondent.

(Index No. 07-2298)

Motion by the petitioner pro se for leave to prosecute a proceeding pursuant to CPLR article 78, which was transferred to this court by order of the Supreme Court, Dutchess County, dated September 20, 2007, on the original papers and to waive the filing fee.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is


ORDERED that the branch of the motion which is to waive the filing fee is denied as unnecessary as no filing fee applies to transferred CPLR article 78 proceedings; and it is further,

ORDERED that the branch of the motion which is for leave to prosecute the proceeding on the original papers is granted, and the proceeding will be heard on the original papers (including the transcript of the proceedings, if any) and on the briefs of the parties, who are directed to file nine copies of their respective briefs and to serve one copy on each other; and it is further,

ORDERED that on the court's own motion, the petitioner's time to perfect the proceeding by causing the original papers constituting the record on the proceeding to be filed in the office of the Clerk of this court (*see* 22 NYCRR 670.9[d][2]) and by serving and filing his brief is enlarged until September 2, 2008.

SKELOS, J.P., RITTER, FLORIO and CARNI, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

July 2, 2008

MATTER OF GARCIA v FISCHER