

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

M77083  
E/sl

ROBERT A. SPOLZINO, J.P.  
DAVID S. RITTER  
FRED T. SANTUCCI  
EDWARD D. CARNI, JJ.

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2008-08351

DECISION & ORDER ON MOTION

In the Matter of Marvin Smith, petitioner,  
v Jeffrey Cohen, etc., respondent.

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Motion by the petitioner pro se to stay all proceedings in an action entitled *People v Smith*, pending in the County Court, Westchester County, under Ind. No. 08-0084, pending hearing and determination of a proceeding pursuant to article 78, inter alia, in the nature of prohibition to prohibit the prosecution of the criminal action, and for poor person relief.

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 stay the proceedings is denied; and it is further,

ORDERED that the branch of the motion which is for poor person relief is granted to the extent that the filing fees are waived and that branch of the motion is otherwise denied.

SPOLZINO, J.P., RITTER, SANTUCCI and CARNI, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court

October 10, 2008

MATTER OF SMITH v COHEN