

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

M80309  
E/sl

PETER B. SKELOS, J.P.  
HOWARD MILLER  
EDWARD D. CARNI  
CHERYL E. CHAMBERS, JJ.

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2007-11456

DECISION & ORDER ON MOTION

In the Matter of Jerry Prioleau, petitioner,  
v Joseph Nicoletti, Jr., etc., et al., respondents.

(Index No. 21760/07)

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Motion by respondents for leave to reargue a proceeding pursuant to CPLR article 78 to review a determination dated June 28, 2007, which was determined by decision and judgment of this court dated September 9, 2008, or, in the alternative, for leave to appeal to the Court of Appeals from the decision and judgment of this court. Cross motion by the petitioners for leave to appeal to the Court of Appeals from the decision and judgment of this court.

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

ORDERED that the motion and the cross motion are denied.

SKELOS, J.P., MILLER, CARNI and CHAMBERS, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court

December 24, 2008

MATTER OF PRIOLEAU v NICOLETTI