

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

M87904  
E/sl

A. GAIL PRUDENTI, P.J.  
FRED T. SANTUCCI  
HOWARD MILLER  
LEONARD B. AUSTIN, JJ.

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2008-07490

DECISION & ORDER ON MOTION

In the Matter of Gary Royster, petitioner,  
v Robert Ercole, etc., respondent.

(Index No. 8452/07)

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Motion by the petitioner pro se for leave to prosecute a proceeding pursuant to CPLR article 78, which was transferred to this court by an order of the Supreme Court, Dutchess County, dated August 1, 2008, as a poor person, and to enlarge the time to perfect the proceeding.

Upon the papers filed in support of the motion and no papers having been filed in opposition or in relation thereto, it is

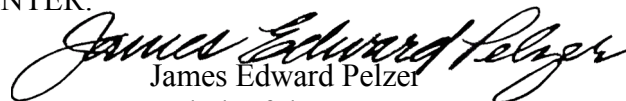
ORDERED that the branch of the motion which is for leave to prosecute the proceeding on the original papers is granted, and the proceeding will be heard on the original papers (including the transcript of the proceedings, if any) and on the briefs of the parties, who are directed to file nine copies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

ORDERED that the branch of the motion which is to waive payment of the filing fee is denied as unnecessary as no filing fee is payable proceeding pursuant to CPLR article 78 that was transferred to this court by an order of the Supreme Court; and it is further,

ORDERED that the branch of the motion which is to enlarge the time to perfect the proceeding is granted, and the petitioner's time to perfect the proceeding by causing the original papers constituting the record to be filed in the office of the Clerk of this court (*see* 22 NYCRR 670.9[d][2]) and by serving and filing a brief is enlarged until August 10, 2009.

PRUDENTI, P.J., SANTUCCI, MILLER and AUSTIN, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court

June 12, 2009

MATTER OF ROYSTER v ERCOLE