

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

M89906  
E/sl

PETER B. SKELOS, J.P.  
JOHN M. LEVENTHAL  
L. PRISCILLA HALL  
LEONARD B. AUSTIN, JJ.

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2008-10578

DECISION & ORDER ON MOTION

In the Matter of Eric Tolliver, petitioner,  
v Brian Fischer, etc., respondent.

(Index No. 08-5256)

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Renewed motion by the respondent in a proceeding pursuant to CPLR article 78, which was transferred to this court by an order of the Supreme Court, Dutchess County, dated November 17, 2008, to supplement the record with a certain compact disc containing certain telephone calls made by the petitioner.

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

ORDERED that the motion is denied.

SKELOS, J.P., LEVENTHAL, HALL and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

July 24, 2009

MATTER OF TOLLIVER v FISCHER