

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

648

OP 09-02550

PRESENT: MARTOCHE, J.P., SMITH, FAHEY, PERADOTTO, AND GREEN, JJ.

IN THE MATTER OF LEON R. KOZIOL, INDIVIDUALLY
AND AS NATURAL PARENT OF CHILD A AND CHILD B,
AND ON BEHALF OF PARENTS AND CHILDREN SIMILARLY
SITUATED, PETITIONER,

V

MEMORANDUM AND ORDER

MARTHA WALSH HOOD, ACTING JUDGE OF STATE OF
NEW YORK, MICHAEL DALEY, ACTING FAMILY COURT
JUDGE OF STATE OF NEW YORK, WILLIAM L. KOSLOSKY,
ATTORNEY FOR THE CHILD, KELLY HAWSE-KOZIOL,
CUSTODIAL PARENT OF THE STATE OF NEW YORK,
UNIFIED COURT SYSTEM AND STATE OF NEW YORK,
RESPONDENTS.

LEON R. KOZIOL, UTICA, PETITIONER PRO SE.

WILLIAM L. KOSLOSKY, UTICA, RESPONDENT PRO SE.

Proceeding pursuant to CPLR article 78 (initiated in the Appellate Division of the Supreme Court in the Fourth Judicial Department pursuant to CPLR 506 [b] [1]) seeking, inter alia, relief in the nature of prohibition and mandamus.

It is hereby ORDERED that said petition is unanimously dismissed without costs.

Memorandum: We dismiss this CPLR article 78 petition seeking, inter alia, relief in the nature of prohibition and mandamus. "[P]etitioner here has failed to demonstrate a clear legal right to either of these remedies [that] could not be safeguarded through alternative remedies" (*Matter of Galinson v Graci*, 182 AD2d 819, 820; see *Matter of Susskind v Stanger*, 122 AD2d 213, 214-215; *Matter of Raysor v Stern*, 68 AD2d 786, 788-789, lv denied 48 NY2d 605, cert denied 446 US 942, reh denied 457 US 1127).

Entered: April 30, 2010

Patricia L. Morgan
Clerk of the Court