

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

D70154
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VALERIE BRATHWAITE NELSON, J.P.
REINALDO E. RIVERA
CHERYL E. CHAMBERS
DEBORAH A. DOWLING, JJ.

2021-06373

DECISION & ORDER

In the Matter of Raymond A. Tierney, etc., petitioner,
v Chris Ann Kelley, etc., et al., respondents.

Raymond A. Tierney, District Attorney, Riverhead, NY (Glenn Green of counsel),
petitioner pro se.

Feldman & Feldman, Manhasset, NY (Steven A. Felman and Arza Feldman of
counsel), for respondent Chris Ann Kelley.

Mayer & Baron, PLLC, Hauppauge, NY (Peter H. Mayer IV of counsel), for
respondent Fidel Portillo.

Davis & Ferber, LLP, Islandia, NY (Alex J. Kaminski of counsel), for amici curiae
Suffolk County Police Conference, Suffolk County Police Benevolent Association,
Inc., and Suffolk County Detective Investigators Police Benevolent Association.

New York Civil Liberties Union Foundation, New York, NY (Daniel R. Lambright,
Robert Hodgson, and Molly Biklen of counsel), amicus curiae pro se.

District Attorneys Association of the State Of New York, Brooklyn, NY (J. Anthony
Jordan, Diem H. Tran, and Danielle E. Phillips of counsel), amicus curiae pro se.

Legal Aid Society, New York, NY (Twyla Carter and Jennvine Wong of counsel);
Brooklyn Defender Services, Brooklyn, NY (Lisa Schreibersdorf of counsel); New
York County Defender Services, New York, NY (Casey Dalporto and Bernadette
Rabuy of counsel); Neighborhood Defender Service of Harlem, New York, NY
(Meghna Philip of counsel), amici curiae pro se (one brief filed).

Scott Lockwood, Deer Park, NY (Danielle Coysh of counsel), for amicus curiae

Suffolk County Criminal Defense Attorneys.

Anne T. Donnelly, District Attorney, Mineola, NY (Jed L. Painter of counsel),
amicus curiae pro se.

Legal Aid Society of Nassau County, Hempstead, NY (N. Scott Banks, Tammy
Feman, and Marquetta Christy of counsel), amicus curiae pro se.

Legal Aid of Bureau of Buffalo, Inc., Buffalo, NY (Erin A. Tresmond and John
Morrisey of counsel), amicus curiae pro se and for amici curiae Chief Defenders
Association of New York, New York State Defenders Association, New York State
Association of Criminal Defense Lawyers, Broome County Public Defender's Office,
Center for Appellate Litigation, Genesee County Public Defender, Legal Aid Society
of Westchester County, Livingston County Public Defender, Monroe County Conflict
Defender's Office, Monroe County Public Defender's Office, New York County
Defender Services, Oneida County Public Defender, Onondaga County Barr
Association Assigned Counsel Program, Ontario County Office of the Conflict
Defender, Ontario County Public Defender, Schuyler County Public Defender's
Office, The Bronx Defenders, Tompkins County Assigned Counsel Program, and the
Wayne County Public Defender Office.

Proceeding pursuant to CPLR article 78 in the nature of prohibition to prohibit the
respondent Chris Anne Kelley, a Justice of the Supreme Court, Suffolk County, from enforcing an
order dated July 23, 2021, issued in an action entitled *People v Portillo*, pending in that court under
Indictment No. 179/20.

ADJUDGED that the petition is denied and the proceeding is dismissed on the merits,
without costs or disbursements.

“Because of its extraordinary nature, prohibition is available only where there is a
clear legal right, and then only when a court—in cases where judicial authority is challenged—acts
or threatens to act either without jurisdiction or in excess of its authorized powers” (*Matter of
Holtzman v Goldman*, 71 NY2d 564, 569; *see Matter of Rush v Mordue*, 68 NY2d 348, 352). The
petitioner has failed to demonstrate a clear legal right to the relief sought.

BRATHWAITE NELSON, J.P., RIVERA, CHAMBERS and DOWLING, JJ., concur.

ENTER:



Maria T. Fasulo
Clerk of the Court