

/\* This was reported in 549 N.Y.S.2d 308 \*/  
Matter of ANONYMOUS.  
Supreme Court, Appellate Division, Fourth Department  
Dec. 20, 1989.

Before BOOMER, J.P., and GREEN, PINE, LAWTON and DAVIS, JJ.

MEMORANDUM:

Prohibition will not lie to review the order of the court directing petitioner to provide a blood sample for use in the prosecution of a criminal action charging him with attempted murder by attempting to infect three police officers with the HIV virus by biting them (see, Matter of James N v. D'Amico, 139 A.D.2d 302, 530 N.Y.S.2d 916, lv. denied 73 N.Y.2d 703, 537 N.Y.S.2d 491, 534 N.E.2d 329). County Court acted within its authorized powers in compelling petitioner to give blood. CPL 240.-40(2)(a)(v) specifically authorizes such an order in a criminal case and, thus, the powers of the court are not circumscribed by Public Health Law 2781(1).

Were we to reach the merits, we would hold that County Court did not err in granting the order compelling petitioner to give blood (see, Matter of Abe A., 56 N.Y.2d 288, 452 N.Y.S.2d 6, 437 N.E.2d 265). Moreover, County Court complied with the requirements of section 2785 of the Public Health Law, which deals with "Court authorization for disclosure of confidential HIV related information." (Original Article 78 Proceeding.)  
Petition unanimously dismissed without costs.