

September 08, 2011

CASE

4 No. 219 SSM 32

The People &c.,
Respondent,

v.

Willie Holmes, Jr.,
Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, Fourth Department, for consideration of issues raised but not determined on the appeal to that court (see People v Hunter, 17 NY3d 725 [2011]).

Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

MOTIONS

1 Mo. No. 2011-613
Rev., Dr. Bill Akpinar,
 Appellant,
 v.
William Moran, et al.,
 Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1 Mo. No. 2011-845
Assured Guaranty (UK) Ltd., &c.,
 Respondent,
 v.
J. P. Morgan Investment Management Inc.,
 Appellant.

Motion by Public Investors Arbitration Bar Association for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Two copies of the brief must be served and 19 copies filed within seven days.

1 Mo. No. 2011-855
Assured Guaranty (UK) Ltd., &c.,
 Respondent,
 v.
J. P. Morgan Investment Management Inc.,
 Appellant.

Motion by Cornell Securities Law Clinic for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served and 19 copies filed within seven days.

4 Mo. No. 2011-624
In the Matter of Mya B.

Motion for leave to appeal denied.

Onondaga County Department of Social
Services,
 Respondent;
Carrie S.,
 Respondent;
William B., Jr.,
 Appellant.

2 Mo. No. 2011-580
Brer-Four Transportation Corp.,
Appellant,
v.
Zurich American Insurance Company, et al.,
Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1 Mo. No. 2011-631
Maninder Bhugra,
Appellant,
v.
Massachusetts Casualty Insurance Company,
et al.,
Defendants,
Disability Management Services,
Respondent.

Motion for reconsideration of this Court's May 3, 2011 dismissal order denied.

4 Mo. No. 2011-612
The People &c.,
Respondent,
v.
Corey Bones,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2011-627
In the Matter of Jason L. Brothers,
Respondent,
v.
Heather L. Chapman,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2011-616
In the Matter of Richanda J. Bulson,
Respondent,
v.
David R. Grinnell,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2011-759
The People &c.,
Respondent,
v.
Monroe B. Bussey,
Appellant.

Motion for assignment of counsel granted and Alex Smith, Esq., 6 North Street, Middletown, NY 10940 assigned as counsel to the appellant on the appeal herein.

3 Mo. No. 2011-634
Walter E. Carver, &c.,
Appellant,
v.
State of New York,
Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

2 Mo. No. 2011-956
The People &c.,
Respondent,
v.
Mickey Cass,
Appellant.

Motion for assignment of counsel granted and Lynn W. L. Fahey, Esq., Appellate Advocates, 2 Rector Street, 10th Floor, New York, NY 10006 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2011-636
In the Matter of George Cavallero,
Appellant,
v.
Maria Pena,
Respondent.
(And Another Proceeding.)

Motion for leave to appeal denied.

4 Mo. No. 2011-1010
The People &c.,
Appellant,
v.
Raymond Clyde,
Respondent.

Motion by New York State Association of Criminal Defense Lawyers for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served and 24 copies filed within seven days.

1 Mo. No. 2011-899
Barbara Coleman, &c.,
 Respondent,
 v.
Richard F. Daines, M.D., &c.,
et al.,
 Appellants.

Motion by Empire Justice Center et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed.

2 Mo. No. 2011-782
The People &c.,
 Respondent,
 v.
Delroy Colville,
 Appellant.

Motion for assignment of counsel granted and Lynn W. L. Fahey, Esq., Appellate Advocates, 2 Rector Street, 10th Floor, New York, NY 10006 assigned as counsel to the appellant on the appeal herein.

3 Mo. No. 2011-585
In the Matter of Corporate Woods 11, LP,
 Appellant,
 v.
Board of Assessment Review of The Town of
Colonie et al.,
 Respondents,
et al.,
 Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1 Mo. No. 2011-620
George Cutrone, et al.,
 Respondents,
 v.
New York City Transit Authority,
 Appellant,
Malvese Equipment Co., Inc.,
 Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1 Mo. No. 2011-872
The People &c.,
 Respondent,
 v.
Quinton Dais,
 Appellant.

Motion for assignment of counsel granted and Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, NY 10006 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2011-625
The People &c.,
 Respondent,
 v.
Daniel Diaz,
 Appellant.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.

1 Mo. No. 2011-936
Gloria Doomes, &c.,
 Appellant,
 v.
Best Transit Corp., et al.,
 Defendants,
Warrick Industries, Inc., &c.,
 Respondent.

Motion by Product Liability Advisory Council, Inc. for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served and 24 copies filed within seven days.

Ana Jiminian, &c.,
 Appellant,
 v.
Best Transit Corp., et al.,
 Defendants,
Warrick Industries, Inc., &c.,
 Respondent.

Kelli Rivera,
 Appellant,
 v.
Best Transit Corp., et al.,
 Defendants,
Warrick Industries, Inc., &c.,
 Respondent.

2 Mo. No. 2011-600
In the Matter of Elias E. (Anonymous),
Appellant.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the proceeding within the meaning of the Constitution.

2 Mo. No. 2011-578
In the Matter of Michael Fuentes,
Respondent,
v.
Planning Board of the Village of Woodbury,
Appellant.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

4 Mo. No. 2011-789
The People &c.,
Respondent,
v.
Derrick Gause,
Appellant.

Motion for assignment of counsel granted and Mary Davison, Esq., c/o Davison Law Office, 61 North Main Street, Suite C, PO Box 652, Canandaigua, NY 14424 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2011-597
The People &c.,
Respondent,
v.
Jonathan Grant,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2011-596
Robin Grovesteen,
Appellant,
v.
New York State Public Employees
Federation, AFL-CIO,
Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1 Mo. No. 2011-604
Hampton Hall Pty Ltd.,
 Appellant,
 v.
Global Funding Services, Ltd., et al.,
 Defendants,
Rick, Steiner, Fell & Benowitz LLP,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2011-824
The People &c.,
 Respondent,
 v.
Willie Holmes, Jr.,
 Appellant.

Motion for assignment of counsel granted and Timothy P. Donaher, Esq., Monroe County Public Defender, 10 N. Fitzhugh Street, Rochester, NY 14614 assigned as counsel to the appellant on the appeal herein.

4 Mo. No. 2011-581
The People &c. ex rel. Aaron Jabot,
 Appellant,
 v.
Mark Bradt, &c., et al.,
 Respondents.

Motion for leave to appeal dismissed upon the ground that this motion for leave to appeal does not lie from the order of the individual Justice of the Appellate Division (see NY Const, art VI, § 3[b]; CPLR 5602).
Motion for poor person relief dismissed as academic.

3 Mo. No. 2011-994
The People &c.,
 Respondent,
 v.
Leo Leonard,
 Appellant.

Motion for assignment of counsel granted and Stuart M. Cohen, Esq., PO Box 598, Rensselaer, NY 12144 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2011-599
Simon Lorne,
 Plaintiff,
Ludmilla Lorne,
 Appellant,
 v.
50 Madison Avenue LLC, et al.,
 Respondents,
et al.,
 Defendants.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the action within the meaning of the Constitution.

4 Mo. No. 2011-572
In the Matter of Lisa Lyons,
 Appellant,
 v.
New York State Division of Human Rights
and City of Rochester,
 Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2011-601
In the Matter of Stephon M.

William W.,
 Appellant,
The New York Foundling Hospital,
 Respondent,
Ruby M., et al.,
 Respondents.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2011-607
The People &c.,
 Respondent,
 v.
Ruben Martinez,
 Appellant.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.

4 Mo. No. 2011-741
The People &c.,
Appellant,
v.
Jeffery H. Miller,
Respondent.

Motion for assignment of counsel granted and Timothy P. Donaher, Esq., Monroe County Public Defender, 10 N. Fitzhugh Street, Rochester, NY 14614 assigned as counsel to the respondent on the appeal herein.

2 Mo. No. 2011-680
The People &c.,
Respondent,
v.
Vernon Mingo,
Appellant.

Motion for an extension of the time within which to apply for permission to appeal pursuant to CPL 460.20 granted and motion papers treated as a timely CPL 460.20 application.

1 Mo. No. 2011-767
The People &c.,
Respondent-Appellant,
v.
Akinlowo Omowale,
Appellant-Respondent.

Motion for assignment of counsel granted and Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, NY 10007 assigned as counsel to the appellant-respondent on the appeal herein.

2 Mo. No. 2011-606
In the Matter of Orange County Department
of Social Services, on Behalf of Doris Zieran,
Respondent,
v.
Mark Marvin,
Appellant.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the proceeding within the meaning of the Constitution.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2011-605
The People &c.,
Respondent,
v.
Christopher Porco,
Appellant.

Motion to strike portions of appellant's reply brief denied.
Judge Graffeo took no part.

2 Mo. No. 2011-844
The People &c.,
Respondent,
v.
Christopher Porco,
Appellant.

Motion by District Attorneys Association of the State of New York for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Three copies of the brief must be served and an original and 24 copies filed within seven days.
Judge Graffeo took no part.

2 Mo. No. 2011-721
The People &c.,
Respondent,
v.
Luis Ramos,
Appellant.

Motion for assignment of counsel granted and Lynn W. L. Fahey, Esq., Appellate Advocates, 2 Rector Street, 10th Floor, New York, NY 10006 assigned as counsel to the appellant on the appeal herein.

3 Mo. No. 2011-746
The People &c.,
Appellant,
v.
Lamarr Reid,
Respondent.

Motion for assignment of counsel granted and Bruce Evans Knoll, Esq., PO Box 2072, Empire State Plaza, Albany, NY 12220 assigned as counsel to the respondent on the appeal herein.

2 Mo. No. 2011-671
The People &c.,
Respondent,
v.
Luis R. Rivera,
Appellant.

Motion for an extension of the time within which to apply for permission to appeal pursuant to CPL 460.20 granted and motion papers treated as a timely CPL 460.20 application.

1 Mo. No. 2011-1036
Lillian Roberts, &c., et al.,
Appellants,
v.
David A. Paterson, &c., et al.,
Respondents.

Motion by New York State AFL-CIO for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be filed within seven days.

1 Mo. No. 2011-821
Roni LLC, et al.,
 Appellants,
 v.
Rachel L. Arfa, et al.,
 Respondents.

Motion by Larry E. Ribstein for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Three copies of the brief must be served and an original and 19 copies filed within seven days.

4 Mo. No. 2011-575
In the Matter of Norman E. Roth, et al.,
 Appellants,
 v.
City of Syracuse, et al.,
 Respondents.
(And Other Proceedings.)

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the proceedings within the meaning of the Constitution (see Burke v Crosson, 85 NY2d 10, 18 n 5 [1995]).

1 Mo. No. 2011-588
Ryan, Inc., &c.,
 Appellant,
 v.
New York State Department of Taxation and
Finance, et al.,
 Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

3 Mo. No. 2011-557
Donald Sevey,
 Appellant,
 v.
Betty D. Friedlander et al.,
 Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

4 Mo. No. 2011-594
Small Business Loan Source, LLC,
Appellant,
v.
4 Dogs of Syracuse, LLC, et al.,
Respondents.
Joseph A. Kessler,
Nonparty-Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

2 Mo. No. 2011-583
The People &c.,
Respondent,
v.
Ronald Stahl,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2011-788
In the Matter of Terrace Court, LLC,
Appellant,
v.
New York State Division of Housing and
Community Renewal,
Respondent,
Robert Katel, et al.,
Intervenors-Respondents.

Motion by New York State Tenants & Neighbors Coalition, Inc. et al. for leave to appear amici curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Two copies of the brief must be served and 19 copies filed within seven days.

1 Mo. No. 2011-865
In the Matter of Terrace Court, LLC,
Appellant,
v.
New York State Division of Housing and
Community Renewal,
Respondent,
Robert Katel, et al.,
Intervenors-Respondents.

Motion by Community Housing Improvement Program of New York Inc. et al. for leave to appear amici curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Two copies of the brief must be served and 19 copies filed within seven days.

4 Mo. No. 2011-586
The People &c.,
Respondent,
v.
Dennis Tooley,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2011-591
In the Matter of Tribeca Medical, P.C.,
Appellant,
v.
New York State Department of Health et al.,
Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1 Mo. No. 2011-570
In the Matter of Maria Villar, &c.,
Appellant,
v.
Raymond W. Kelly, &c., et al.,
Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1 Mo. No. 2011-626
The People &c.,
Respondent,
v.
Darrick Ward,
Appellant.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2011-576
Lynda Williams, et al.,
Appellants,
v.
Long Island College Hospital,
et al.,
Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1 Mo. No. 2011-876
The People &c.,
 Respondent,
 v.
Malik Yusuf,
a/k/a, Yusuf M. Ashford,
 Appellant.

Motion for assignment of counsel granted and Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, NY 10006 assigned as counsel to the appellant on the appeal herein.

3 Mo. No. 2011-948
In the Matter of Rocio Zamora,
 Respondent,
 v.
New York Neurologic Associates et al.,
 Appellants.
Workers' Compensation Board,
 Appellant.

Motion by Injured Workers Bar Association for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Two copies of the brief must be served and 19 copies filed within seven days.

1 Mo. No. 2011-573
The People &c.,
 Appellant,
 v.
Angelo Zapata,
 Respondent.

Motion for leave to appeal denied.