

November 14, 2013

CASES

3                    No. 205  
The People &c.,  
    Respondent,  
    v.  
Daniel Boyer,  
    Appellant.

Order affirmed.  
Opinion by Judge Abdus-Salaam.  
Judges Graffeo, Read, Smith and Pigott concur.  
Judge Rivera dissents and votes to reverse in an  
opinion in which Chief Judge Lippman concurs.

1                    No. 199  
The People &c.,  
    Respondent,  
    v.  
Thomas Brown,  
    Appellant.

Order affirmed.  
Opinion by Judge Read.  
Chief Judge Lippman and Judges Graffeo, Smith,  
Pigott, Rivera and Abdus-Salaam concur.

4                    No. 201  
The People &c.,  
    Respondent,  
    v.  
Darnell Carter,  
    Appellant.

Order affirmed.  
Opinion by Judge Read.  
Chief Judge Lippman and Judges Graffeo, Smith,  
Pigott, Rivera and Abdus-Salaam concur.

1                    No. 253 SSM 29  
DLJ Mortgage Capital, Inc.,  
    Appellant,  
    v.  
Thomas Kontogiannis, et al.,  
    Defendants,  
Chicago Title Insurance Company, Inc., et al.,  
    Respondents.

On review of submissions pursuant to section 500.11  
of the Rules, order affirmed, with costs, and certified  
question answered in the affirmative, in a  
memorandum.  
Chief Judge Lippman and Judges Graffeo, Read,  
Smith, Pigott, Rivera and Abdus-Salaam concur.

2                    No. 178  
In the Matter of Riven Flamenbaum,  
Deceased.

Vorderasiatisches Museum,  
Respondent,  
Hannah K. Flamenbaum,  
Appellant,  
Israel Flamenbaum,  
Respondent.

Order affirmed, with costs, and certified question answered in the affirmative, in a memorandum. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

1                    No. 200  
The People &c.,  
Respondent,  
v.  
Joseph Harris,  
Appellant.

Order affirmed.  
Opinion by Judge Read.  
Chief Judge Lippman and Judges Graffeo, Smith, Pigott, Rivera and Abdus-Salaam concur.

1                    No. 196  
JFK Holding Company LLC, et al.,  
Respondents,  
v.  
City of New York, et al.,  
Defendants,  
The Salvation Army,  
Appellant.

Order reversed, with costs, the amended complaint dismissed as against defendant The Salvation Army and certified question answered in the negative. Opinion by Judge Smith. Chief Judge Lippman and Judges Graffeo, Read, Pigott and Abdus-Salaam concur. Judge Rivera took no part.

2                    No. 197  
Rocky Point Drive-In, L.P.,  
Appellant,  
v.  
Town of Brookhaven, et al.,  
Respondents.

Order affirmed, with costs.  
Opinion by Judge Rivera.  
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Abdus-Salaam concur.

1                    No. 206  
The People &c.,  
    Appellant,  
    v.  
Equan Sanders,  
    Respondent.

Order reversed and case remitted to Supreme Court,  
New York County, for resentencing.  
Opinion by Judge Abdus-Salaam.  
Judges Graffeo, Read, Smith and Pigott concur.  
Judge Rivera dissents and votes to affirm in an  
opinion in which Chief Judge Lippman concurs.

1                    No. 188  
The People &c.,  
    Respondent,  
    v.  
Carl D. Wells,  
    Appellant.

Order reversed, defendant's guilty plea vacated and  
case remitted to Supreme Court, Bronx County, for  
further proceedings on the complaint.  
Opinion by Judge Graffeo.  
Chief Judge Lippman and Judges Read, Smith,  
Rivera and Abdus-Salaam concur.  
Judge Pigott dissents and votes to affirm in an  
opinion.

**MOTIONS**

1                    Mo. No. 2013-1044  
Maria Auqui, &c., et al.,  
    Respondents,  
    v.  
Seven Thirty One Limited Partnership, et al.,  
    Appellants.

Motion by Make the Road 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.

1                    Mo. No. 2013-1045  
Maria Auqui, &c., et al.,  
    Respondents,  
    v.  
Seven Thirty One Limited Partnership, et al.,  
    Appellants.

Motion by The Black Institute for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed.

1                    Mo. No. 2013-1049  
Maria Auqui, &c., et al.,  
    Respondents,  
    v.  
Seven Thirty One Limited Partnership, et al.,  
    Appellants.

Motion by New York Communities for Change for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed.

1                    Mo. No. 2013-1050  
Maria Auqui, &c., et al.,  
    Respondents,  
    v.  
Seven Thirty One Limited Partnership, et al.,  
    Appellants.

Motion by The Center for Popular Democracy for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed.

1                    Mo. No. 2013-1055  
Maria Auqui, &c., et al.,  
    Respondents,  
    v.  
Seven Thirty One Limited Partnership, et al.,  
    Appellants.

Motion by New York State Trial Lawyers  
Association for leave to file a brief amicus curiae on  
the appeal herein granted and the proposed brief is  
accepted as filed.

2                    Mo. No. 2013-934  
The People &c.,  
    Respondent,  
    v.  
Patrick Barclay,  
    Appellant.

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

3                    Mo. No. 2013-923  
The People &c. ex rel. Jason Cato,  
    Appellant,  
    v.  
Jeffrey Tedford, &c.,  
    Respondent.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Judge Pigott took no part.

1                    Mo. No. 2013-937  
Cosmetics Plus Group, Ltd.,  
et al.,  
    Appellants,  
    v.  
Paul Traub, et al.,  
    Respondents.

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

                    Mo. No. 2013-1108  
The People &c.,  
    Respondent,  
    v.  
Thomas Horton,  
    Appellant.

Motion for assignment of counsel granted and Tyson  
Blue, Esq., 4064 County Line Road, Macedon, NY  
14502 assigned as counsel to the appellant on the  
appeal herein.

1                    Mo. No. 2013-178  
JFK Holding Company LLC, et al.,  
    Respondents,  
    v.  
City of New York, et al.,  
    Defendants,  
The Salvation Army,  
    Appellant.

Motion to strike Point III of the brief for respondents  
denied.  
Judge Rivera took no part.

2                    Mo. No. 2013-1064  
In the Matter of Daniel Kasckarow,  
    Appellant,  
    v.  
Board of Examiners of Sex Offenders of State  
of New York,  
    Respondent.

Motion for poor person relief granted.

4                    Mo. No. 2013-819  
Charles R. Livecchi,  
    Appellant,  
    v.  
John Nacca,  
    Respondent.

Motion for reargument of motion for leave to appeal  
denied.

                    Mo. No. 2013-890  
In the Matter of Harvey Marcelin,  
    Appellant,  
    v.  
Andrea Evans, &c.,  
    Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2013-904  
Gerard Matovcik,  
    Appellant,  
    v.  
Times Beacon Record Newspapers, &c., et  
al.,  
    Respondents.

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

2 Mo. No. 2013-1072  
The People &c.,  
Respondent,  
v.  
Anthony Oddone,  
Appellant.

Motion by New York City Bar Association 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 an original and nine copies filed within seven days.

1 Mo. No. 2013-889  
In the Matter of Julianne Polito,  
Appellant,  
v.  
The New York City Department of Education,  
&c.,  
Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements. Judge Abdus-Salaam took no part.

3 Mo. No. 2013-927  
In the Matter of Keith Pooler,  
Appellant,  
v.  
Brian Fischer, &c.,  
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2013-747  
Larry Pouncy,  
Appellant,  
v.  
Jason L. Solotaroff, et al.,  
Respondents.

Motion for reargument of motion for leave to appeal denied. Judge Abdus-Salaam took no part.

1 Mo. No. 2013-1115  
Joseph W. Powers, &c.,  
Appellant,  
v.  
31 E 31 LLC, et al.,  
Respondents.

Motion by New York State Trial Lawyers Association for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed.

1                    Mo. No. 2013-939  
Angelo Ruotolo,  
    Appellant,  
    v.  
Mussman & Northey, et al.,  
    Respondents.

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

3                    Mo. No. 2013-1027  
The People &c.,  
    Respondent,  
    v.  
Adrian P. Thomas,  
    Appellant.

Motion by Legal Aid Society 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 an original and nine copies filed within seven days.

3                    Mo. No. 2013-1071  
The People &c.,  
    Respondent,  
    v.  
Charles Wiltshire,  
    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.