

June 05, 2014

CASES

4 No. 174 SSM 9
Joseph Catalano et al.,
 Appellants,
 v.
Laurie Tanner, &c.,
 Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, and defendant's motion for summary judgment denied. Defendant failed to establish prima facie entitlement to judgment as a matter of law concerning the reasonableness of her inspection practices. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

 No. 103
The People &c.,
 Respondent,
 v.
Joseph Dumay,
 Appellant.

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

 No. 108
The People &c.,
 Respondent,
 v.
Patricia Fratangelo,
 Appellant.

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

1 No. 96
IDT Corp., et al.,
 Respondents,
 v.
Tyco Group, S.A.R.L., et al.,
 Appellants.

Order reversed, with costs, order of Supreme Court, New York County, reinstated and certified question answered in the negative.
Opinion by Judge Smith.
Judges Read, Rivera and Abdus-Salaam concur.
Judge Pigott dissents in an opinion in which Judge Graffeo concurs.
Chief Judge Lippman took no part.

2 No. 95
In the Matter of Town of Islip,
 Appellant,
 v.
New York State Public Employment
Relations Board, et al.,
 Respondents.

Order modified, without costs, by remitting to the Appellate Division, Second Department, with directions to remand to the New York State Public Employment Relations Board for further proceedings in accordance with the opinion herein and, as so modified, affirmed.
Opinion by Judge Read.
Chief Judge Lippman and Judges Graffeo, Rivera and Abdus-Salaam concur.
Judge Pigott dissents in an opinion in which Judge Smith concurs.

1 No. 104
The People &c.,
 Respondent,
 v.
Sharmelle Johnson,
 Appellant.

Order reversed, defendant's motion to vacate plea granted, and case remitted to Supreme Court, New York County, for further proceedings in accordance with the memorandum herein.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Rivera concur.
Judge Abdus-Salaam took no part.

2 No. 116
In the Matter of Antwaine T.,
 Respondent;
Presentment Agency,
 Appellant.

Order reversed, without costs, and order of Family Court, Kings County, reinstated.
Opinion by Judge Pigott.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Rivera and Abdus-Salaam concur.

2 No. 107
The People &c.,
 Appellant,
 v.
Sidney Wisdom,
 Respondent.

Order reversed, judgment of conviction reinstated, and case remitted to the Appellate Division, Second Department, for consideration of the facts and issues raised but not determined on the appeal to that court, in a memorandum.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

1 No. 101
Rhonda Wittorf,
 Appellant,
 v.
City of New York,
 Respondent.

Order reversed, with costs, case remitted to Supreme Court, New York County, for further proceedings in accordance with the opinion herein, and certified question not answered as unnecessary.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

MOTIONS

4 Mo. No. 2014-348
Geoffrey Bond et al.,
Respondents,

v.

Thomas A. Turner et al.,
Appellants,
Village of Lakewood,
Respondent.

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

1 Mo. No. 2014-506
In the Matter of Kelly S. Boyd,
Respondent,

v.

New York State Division of Housing and
Community Renewal, et al.,
Appellants.

Motion by Association for Neighborhood and Housing Development et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed. A copy of the brief must be served and an original and two copies filed within seven days.

1 Mo. No. 2014-515
In the Matter of Kelly S. Boyd,
Respondent,

v.

New York State Division of Housing and
Community Renewal, et al.,
Appellants.

Motion by CAMBA Legal Services for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. A copy of the brief must be served and an original and two copies filed within seven days.

1 Mo. No. 2014-516
In the Matter of Kelly S. Boyd,
Respondent,

v.

New York State Division of Housing and
Community Renewal, et al.,
Appellants.

Motion by Bill Perkins et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed. A copy of the brief must be served and an original and two copies filed within seven days.

1 Mo. No. 2014-517
In the Matter of Kelly S. Boyd,
Respondent,

v.

New York State Division of Housing and
Community Renewal, et al.,
Appellants.

Motion by Letitia James 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. 2014-73
In the Matter of Jalaya A.C. (Anonymous).

New York Foundling Hospital,
Respondent;
Deidra J. (Anonymous),
Appellant;
Jayquin Joseph C. (Anonymous),
Respondent.
(And Other Proceedings.)

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

1 Mo. No. 2014-257
Cooperatieve Centrale Raiffeisen-
Boerenleenbank, B.A., &c.,
Respondent,

v.

Francisco Javier Herrera Navarro,
Appellant,
The Estate of Eduardo Guzman Solis,
Defendant.

Motion to expand the record denied.

2 Mo. No. 2014-336
In the Matter of Cornwall Yacht Club, Inc.,
Appellant,

v.

Assessor, et al.,
Respondents;
Cornwall Central School District,
Nonparty-Respondent.

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

3 Mo. No. 2014-357
In the Matter of Frederick Franklin,
 Appellant,
 v.
New York State Board of Parole Appeals
Unit,
 Respondent.

Motion for reargument of motion for leave to appeal denied.

1 Mo. No. 2014-478
The People &c.,
 Respondent,
 v.
Richard Gonzalez,
 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.

1 Mo. No. 2014-339
Eric Hadar, et al.,
 Appellants,
 v.
Clay Pierce, et al.,
 Respondents,
et al.,
 Defendants.

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

1 Mo. No. 2014-382
Leonard Hutchinson,
 Appellant,
 v.
Sheridan Hill House Corp.,
 Respondent.

Motion to vacate this Court's March 11, 2014 dismissal order granted.

1 Mo. No. 2014-571
The People &c.,
 Respondent,
 v.
Jose Inoa,
 Appellant.

Motion for assignment of counsel granted and John R. Lewis, Esq., 36 Hemlock Drive, Sleepy Hollow, NY 10591 assigned as counsel to the appellant on the appeal herein.

4 Mo. No. 2014-559
The People &c.,
Respondent,
v.
Clemon Jones,
Appellant.

Motion for assignment of counsel granted and John A. Cirando, Esq., c/o D.J. & J.A. Cirando, Esqs., 101 South Salina Street, Syracuse, NY 13202 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2014-345
Robert E. Kodsí,
Appellant,
v.
Steven T. Gee, et al.,
Respondents.

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

4 Mo. No. 2014-497
The People &c.,
Respondent,
v.
Jafari Lamont,
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.

Mo. No. 2014-512
The People &c.,
Respondent,
v.
Marquan M.,
Appellant.

Motion by Advocates for Children of New York 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. Three copies of the brief must be served and an original and nine copies filed within seven days.

2 Mo. No. 2014-354
In the Matter of Shyquan M. (Anonymous),
Appellant.

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

3 Mo. No. 2014-565
The People &c.,
Respondent,
v.
Quadean Morrison,
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. 2014-379
Camila Nouel, &c., et al.,
Appellants,
v.
325 Wadsworth Realty LLC, et al.,
Respondents,
et al.,
Defendants.

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

3 Mo. No. 2014-359
In the Matter of Numrich Gun Parts
Corporation,
Appellant,
v.
Peter M. Rivera, &c., et al.,
Respondents.

On the Court's own motion, appeal dismissed, without costs, upon the ground that no substantial constitutional question is directly involved. Motion for leave to appeal denied.

4 Mo. No. 2014-514
The People &c.,
Respondent,
v.
Howard S. Wright,
Appellant.

Motion for assignment of counsel granted and David M. Kaplan, Esq., 2129 Five Mile Line Road, Penfield, NY 14526 assigned as counsel to the appellant on the appeal herein.

2 SSD 24
Emily Pines, et al.,
Appellants,
v.
State of New York,
Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved. Chief Judge Lippman took no part.

1 Mo. No. 2014-577
Joseph W. Powers, &c.,
 Appellant,
 v.
31 E 31 LLC, et al.,
 Respondents.

Motion by Defense Association of New York, Inc. for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

2 Mo. No. 2014-432
The People &c.,
 Respondent,
 v.
Julio 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.

2 Mo. No. 2014-367
The People &c.,
 Respondent,
 v.
Rasaun Sanders,
 Appellant.

Motion to dismiss appeal denied.

2 Mo. No. 2014-470
The People &c.,
 Respondent,
 v.
Hakim B. Scott,
 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. 2014-347
In the Matter of Charlotte F. Stafford,
Deceased.

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

NBT Bank, NA, &c.,
 Respondent;
Richard Stafford et al.,
 Appellants.

1 Mo. No. 2014-350
John Tipaldo,
Respondent,
v.
Christopher Lynn, &c., et al.,
Appellants.

Motion for leave to appeal granted.
Chief Judge Lippman took no part.

1 Mo. No. 2014-349
In the Matter of Uniformed Firefighters
Association of Greater New York, &c.,
Appellant,
v.
The City of New York, et al.,
Respondents.

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

1 Mo. No. 2014-411
Universal American Corp.,
Appellant,
v.
National Union Fire Insurance Company of
Pittsburgh, PA.,
Respondent.

Motion for leave to appeal granted.
Chief Judge Lippman took no part.

1 Mo. No. 2014-380
V.A.L. Floors, Inc.,
Appellant,
v.
Marson Contracting Co., Inc.,
Defendant,
Travelers Casualty and Surety Company of
America,
Respondent.

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

1 Mo. No. 2014-356
Alexandre Van Damme,
 Respondent,
 v.
Nahum Gelber,
 Appellant,
Arij Gasiunasen Fine Art of Palm Beach, Inc.,
&c.,
 Respondent.
(And a Third-Party Action.)

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

1 Mo. No. 2014-329
W & W Glass, LLC,
 Respondent,
 v.
1113 York Avenue Realty Company LLC, et
al.,
 Appellants,
et al.,
 Defendants,
Sota Glazing, Inc.,
 Respondent.

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.

2 Mo. No. 2014-316
In the Matter of Darrell W. (Anonymous).

Westchester County Department of Social
Services,
 Respondent;
Tenika C. (Anonymous),
 Appellant.
(And Other Proceedings.)

Motion for leave to appeal denied.