

MAY 4, 2006

CASES

1                   No.     102     SSM 7  
Taynisha Baez,  
                                  Appellant,  
                  v.  
Imamally Rahamatali et al.,  
                                  Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, in a memorandum. Chief Judge Kaye and Judges G.B. Smith, Ciparick, Rosenblatt, Graffeo, Read and R.S. Smith concur.

1                   No.     54  
The People &c.,  
                                  Appellant,  
                  v.  
Mark Conway,  
                                  Respondent.

Order reversed and case remitted to the Appellate Division, First Department, for consideration of the facts (see CPL 470.25[2][d]; 470.40[2][b]), in a memorandum. Chief Judge Kaye and Judges G.B. Smith, Ciparick, Rosenblatt, Graffeo and Read concur. Judge R.S. Smith dissents and votes to dismiss the appeal in an opinion.

3                   No.     58  
In the Matter of Marc Greenberg,  
                                  Appellant,  
                  v.  
New York City Transit Authority,  
                                  Respondent.  
Workers' Compensation Board,  
                                  Respondent.

Order modified in accordance with the opinion herein and, as so modified, affirmed, with costs to claimant. Opinion by Judge R.S. Smith. Chief Judge Kaye and Judges G.B. Smith, Ciparick and Rosenblatt concur. Judge Read dissents in an opinion in which Judge Graffeo concurs.



MOTIONS

- 3-

Mo. No. 416  
Taynisha Baez,  
Appellant,  
v.  
Imamally Rahamatali et al.,  
Respondents.

Motion to enlarge the record on appeal denied.

Mo. No. 513  
The People &c.,  
Respondent,  
v.  
Patricio Bautista,  
Appellant.

Motion by Prisoners' Legal Services of New York et al. for leave to appear amici curiae on the appeal herein granted only to the extent that the proposed submission is accepted as filed.

2-10 Mo. No. 274  
Trevor L. Brooks,  
Appellant,  
v.  
Michael Ross,  
Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements. Judge G.B. Smith took no part.

Mo. No. 481  
The People &c.,  
Respondent,  
v.  
Natsu Carter,  
Appellant.

Motion for assignment of counsel granted and David P. Elkovitch, c/o Law Offices of David P. Elkovitch, 199 Genesee Street, Auburn, NY 13021, assigned as counsel to the appellant on the appeal herein.

Mo. No. 354  
The People &c.,  
Respondent,  
v.  
Leonard Conforti, Also Known As  
Martin Cohen,  
Appellant.

Motion for reconsideration of this Court's February 16, 2006 dismissal order denied. Motion for poor person relief dismissed as academic.

4-10 Mo. No. 188  
David R. D'Alessandro, &c.,  
Appellant,  
v.  
Eastman Kodak Company, et al.,  
Respondents.

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

4-10 Mo. No. 310  
Michelle Ellsworth and David  
Ellsworth,  
Appellants,  
v.  
James F. Foley and Ann F. Foley  
&c.,  
Respondents.

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

3-10 Mo. No. 249  
In the Matter of Bernabe  
Encarnacion,  
Appellant,  
v.  
Glenn S. Goord, &c., et al.,  
Respondents.

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

3-10 Mo. No. 256  
In the Matter of Sheldon B.  
Feiner et al.,  
Appellants,  
v.  
New York State Office of Real  
Property Services et al.,  
Respondents.

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

2-13 Mo. No. 269  
Nellie Frieden,  
Appellant,  
v.  
David Frieden,  
Respondent.

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

2 Mo. No. 294  
Albert Goetz-Haddad,  
Appellant,  
v.  
Pathmark Supermarkets, et al.,  
Respondents.

Motion for leave to appeal dismissed as  
untimely (see CPLR 5513[b]; 5514[a]).  
Motion for poor person relief dismissed as  
academic.

Mo. No. 512 SSD 38  
In the Matter of Edward Halperin,  
et al.,  
Appellants,  
v.  
City of New Rochelle, et al.,  
Respondents.

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

Mo. No. 511 SSD 36  
In the Matter of Edward Halperin,  
et al.,  
Appellants,  
v.  
Board of Appeals on Zoning of  
City of New Rochelle, et al.,  
Respondents.

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

Mo. No. 503  
The People &c.,  
Respondent,  
v.  
Troy Headley,  
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.

Mo. No. 529  
Daniel Hernandez, et al.,  
Appellants,  
v.  
Victor L. Robles, &c.,  
Respondent.

Motion by Concerned Women for America et al. for leave to file a brief amici curiae on the appeal herein granted. Two copies of the brief may be served and 24 copies filed within seven days. Judge Rosenblatt took no part.

Mo. No. 498  
Daniel Hernandez, et al.,  
Appellants,  
v.  
Victor L. Robles, &c.,  
Respondent.

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Sylvia Samuels, et al.,  
Appellants,  
v.  
The New York State Department of  
Health and the State of New York,  
Respondents.

Mo. No. 505  
Daniel Hernandez, et al.,  
Appellants,  
v.  
Victor L. Robles, &c.,  
Respondent.

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Sylvia Samuels, et al.,  
Appellants,  
v.  
The New York State Department of  
Health and the State of New York,  
Respondents.

Mo. No. 518  
Daniel Hernandez, et al.,  
Appellants,  
v.  
Victor L. Robles, &c.,  
Respondent.

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Sylvia Samuels, et al.,  
Appellants,  
v.  
The New York State Department of  
Health and the State of New York,  
Respondents.

Motion by Anti-Defamation League, et al.  
for leave to appear amici curiae on  
the appeals herein granted only to the  
extent that the proposed brief is accepted  
as filed.

Judge Rosenblatt took no part.

Motion by NAACP Legal Defense and  
Educational Fund, Inc. for leave to file  
a brief amicus curiae on the appeals  
herein granted. Two copies of the brief  
may be served and 24 copies filed within  
seven days.

Judge Rosenblatt took no part.

Motion by Suzanne B. Goldberg, et al. for  
leave to file a brief amici curiae on  
the appeals herein granted and the  
proposed brief is accepted as filed.

Judge Rosenblatt took no part.

Mo. No. 469  
Daniel Hernandez, et al.,  
Appellants,  
v.  
Victor L. Robles, &c.,  
Respondent.

Motion by United Families International  
for leave to file a brief amicus  
curiae on the appeals herein granted.  
Two copies of the brief may be served and  
24 copies filed within seven days.  
Judge Rosenblatt took no part.

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In the Matter of Elissa Kane,  
et al.,  
Appellants,  
v.  
John Marsolais, Albany City  
Clerk et al.,  
Respondents.

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Sylvia Samuels, et al.,  
Appellants,  
v.  
The New York State Department of  
Health and the State of New York,  
Respondents.

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Jason Seymour, et al.,  
Appellants,  
v.  
Julie Holcomb as City Clerk of  
the City of Ithaca, et al.,  
Respondents,  
New York State Department of  
Health,  
Respondent.

Mo. No. 482  
Daniel Hernandez, et al.,  
Appellants,  
v.  
Victor L. Robles, &c.,  
Respondent.

Motion by James Q. Wilson, et al. for  
leave to file a brief amici curiae on  
the appeals herein granted. Two copies of  
the brief may be served and 24 copies  
filed within seven days.  
Judge Rosenblatt took no part.

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In the Matter of Elissa Kane,  
et al.,  
Appellants,  
v.  
John Marsolais, Albany City  
Clerk et al.,  
Respondents.

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Sylvia Samuels, et al.,  
Appellants,  
v.  
The New York State Department of  
Health and the State of New York,  
Respondents.

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Jason Seymour, et al.,  
Appellants,  
v.  
Julie Holcomb as City Clerk of  
the City of Ithaca, et al.,  
Respondents,  
New York State Department of  
Health,  
Respondent.

Mo. No. 483  
Daniel Hernandez, et al.,  
Appellants,  
v.  
Victor L. Robles, &c.,  
Respondent.

Motion by Alliance for Marriage for leave to file a brief amicus curiae on the appeals herein granted. Two copies of the brief may be served and 24 copies filed within seven days.  
Judge Rosenblatt took no part.

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In the Matter of Elissa Kane,  
et al.,  
Appellants,  
v.  
John Marsolais, Albany City  
Clerk et al.,  
Respondents.

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Sylvia Samuels, et al.,  
Appellants,  
v.  
The New York State Department of  
Health and the State of New York,  
Respondents.

-----  
Jason Seymour, et al.,  
Appellants,  
v.  
Julie Holcomb as City Clerk of  
the City of Ithaca, et al.,  
Respondents,  
New York State Department of  
Health,  
Respondent.

Mo. No. 539  
Daniel Hernandez, et al.,  
Appellants,  
v.  
Victor L. Robles, &c.,  
Respondent.

Motion by Family Research Council for  
leave to file a brief amicus curiae on  
the appeals herein granted. Two copies of  
the brief may be served and 24 copies  
filed within seven days.  
Judge Rosenblatt took no part.

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In the Matter of Elissa Kane,  
et al.,  
Appellants,  
v.  
John Marsolais, Albany City  
Clerk et al.,  
Respondents.

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Sylvia Samuels, et al.,  
Appellants,  
v.  
The New York State Department of  
Health and the State of New York,  
Respondents.

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Jason Seymour, et al.,  
Appellants,  
v.  
Julie Holcomb as City Clerk of  
the City of Ithaca, et al.,  
Respondents,  
New York State Department of  
Health,  
Respondent.

3-10 Mo. No. 225  
In the Matter of City of Ithaca,  
Respondent,  
v.  
Civil Service Employees  
Association, Inc.,  
Appellant.

Motion for leave to appeal denied.

Mo. No. 273  
Tamar Loper,  
Appellant,  
v.  
State of New York,  
Respondent.

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

Mo. No. 510 SSD 35  
In the Matter of Samuel McNear,  
Appellant,  
v.  
Donald Selsky, as Director of  
Special Housing and Inmate  
Disciplinary Programs,  
Respondent.

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

2-10 Mo. No. 348  
Nicolo Morzillo et al.,  
Appellants,  
v.  
State of New York,  
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.

2-13 Mo. No. 330  
Diane Murray,  
Appellant,  
v.  
Hartford, Also Known As Hartford  
Insurance Company, et al.,  
Respondents.

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

1-10 Mo. No. 241  
Woon Pang Ng, et al.,  
Appellants,  
v.  
Chee Kong Tong Supreme Lodge  
Chinese Freemasons of the World,  
et al.,  
Respondents,  
et al.,  
Defendants.

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

4-10 Mo. No. 319  
The People &c.,  
Respondent,  
v.  
Jose Noriega,  
Appellant.

Motion for leave to appeal denied.

4-10 Mo. No. 186  
Scott Peterman, et al.,  
Respondents,  
v.  
George Pataki, Governor of State  
of New York, et al.,  
Respondents.  
Oneida Indian Nation of New York,  
Nonparty-Appellant,  
et al.,  
Nonparty.

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

1-10 Mo. No. 246  
Pharma Consult, Inc., &c.,  
et al.,  
Appellants,  
v.  
Nutrition Technologies LLC, &c.,  
Respondent,  
et al.,  
Defendants.

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

4-11 Mo. No. 159  
In the Matter of Anthony  
Restaino, Commissioner of  
Niagara County Department of  
Social Services, on behalf of  
Charlotte D. Spooner,  
Respondent,  
v.  
Keith F. Spooner,  
Appellant.

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

3-11 Mo. No. 85  
In the Matter of St. Lawrence  
County Department of Social  
Services, on behalf of Joanne  
Petrie,  
Respondent,  
v.  
Vincent Pratt,  
Appellant.

Motion for leave to appeal denied.

Mo. No. 528  
Sylvia Samuels, et al.,  
Appellants,  
v.  
The New York State Department of  
Health and the State of New York,  
Respondents.

Motion by Concerned Women for America et  
al. for leave to file a brief amici  
curiae on the appeal herein granted.  
Two copies of the brief may be served and  
24 copies filed within seven days.  
Judge Rosenblatt took no part.

2-10 Mo. No. 242  
STED Tenants Owners Corp.,  
Respondent,  
v.  
Alphonso Chumpitaz, et al.,  
Appellants.

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

2-10 Mo. No. 235  
In the Matter of Joshua T.  
(Anonymous).  
Orange County Department of  
Social Services,  
Respondent;  
John T. (Anonymous),  
Appellant.  
(And Five Other Proceedings.)

Motion for leave to appeal denied.

3-10 Mo. No. 252  
Township of Thompson, et al.,  
&c.,  
Appellants,  
v.  
New York State Electric & Gas  
Corporation,  
Respondent.

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

1-10 Mo. No. 247  
Trans-Resources, Inc. et al.,  
Appellants,  
v.  
Nausch Hogan and Murray,  
Respondent.

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

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(And a Third-Party Action.)

2-10 Mo. No. 207  
In the Matter of Eric Turkewitz,  
Appellant,  
v.  
Planning Board of City of  
New Rochelle, et al.,  
Respondents.

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

2-11 Mo. No. 183  
In the Matter of Amaury  
Villalobos,  
Appellant,  
v.  
Edwin Felician, &c., et al.,  
Respondents.

Motion for leave to appeal denied.

3-14 Mo. No. 260  
In the Matter of Western Land  
Services, Inc., et al.,  
Appellants,  
v.  
Department of Environmental  
Conservation of the State of New  
York, et al.,  
Respondents.  
New York Natural Resource  
Owners Association, Inc.,  
Intervenor-Appellant.

Motion for leave to appeal denied.