

April 03, 2012

CASES

2 No. 116 SSM 8
Air Stream Corp.,
 Appellant,
 v.
3300 Lawson Corp.,
 Respondent.

On review of submissions pursuant to section 500.11 of the Rules of the Court of Appeals (22 NYCRR 500.11), order reversed, with costs, and case remitted to the Appellate Division, Second Department, for further proceedings in accordance with the principles of law expressed in Estate of Becker v Murtagh (___ NY3d ___ [2012] [decided today]). Because the legal standards Supreme Court employed were consonant with our decision in Becker, we remit to the Appellate Division rather than Supreme Court. Thus, the Appellate Division, in reviewing Supreme Court's judgment, should now apply the facts of this case to the law as expressed in Becker. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

2 No. 59
Estate of Robert E. Becker,
 Appellant,
et al.,
 Plaintiffs,
 v.
Owen J. Murtagh, et al.,
 Respondents.

Order, insofar as appealed from, reversed, with costs, and judgment of Supreme Court, Suffolk County, reinstated to the extent it grants relief to appellant Estate of Robert E. Becker.
Opinion by Judge Jones.
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith and Pigott concur.

4 No. 56
The People &c.,
 Respondent,
 v.
Aaron Richard Fisher,
 Appellant.

Order reversed and a new trial ordered, in a memorandum.
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Pigott and Jones concur.
Judge Smith dissents in an opinion.

2 No. 49
In the Matter of Michael Lesher,
 Appellant,
 v.
Charles J. Hynes, &c., et al.,
 Respondents.

Order affirmed, with costs.
Opinion by Judge Read.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Smith, Pigott and Jones concur.

2 No. 52
Mount Vernon City School District,
 Respondent-Appellant,
 v.
Nova Casualty Company,
 Appellant-Respondent,
et al.,
 Defendant.

Order affirmed, without costs.
Opinion by Judge Ciparick.
Judges Graffeo, Read, Smith and Pigott concur.
Chief Judge Lippman dissents in part in an opinion in
which Judge Jones concurs.

1 No. 61
The People &c.,
 Respondent,
 v.
Debra Pagan,
 Appellant.

Order affirmed.
Opinion by Judge Pigott.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Smith and Jones concur.

2 No. 62
The People &c.,
 Appellant,
 v.
James Perry,
 Respondent.

Order, insofar as appealed from, reversed, defendant's
conviction of criminal possession of a weapon in the
second degree reinstated and case remitted to the
Appellate Division, Second Department, for
consideration of the facts (CPL 470.25[2][d];
470.40[2][b]).
Opinion by Judge Smith.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Pigott and Jones concur.

1 No. 48
Steven Simkin,
 Respondent,
 v.
Laura Blank,
 Appellant.

Order reversed, with costs, order of Supreme Court,
New York County, reinstated, and certified question
answered in the negative.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Ciparick, Read,
Pigott and Jones concur.
Judge Smith took no part.

MOTIONS

1 Mo. No. 2012-143
In the Matter of Arnel Ashley B.
et al., &c.

Cynthia T.,
Appellant,
Edwin Gould Services For Children and
Families, et al.,
Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2012-192
In the Matter of Leydy S. Bello,
Appellant,
v.
New York State Office of Temporary and
Disability Assistance,
Respondent.

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

4 Mo. No. 2012-186
The People &c.,
Respondent,
v.
Eliud Bennett,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2012-164
Clermont York Assoc.,
Respondent,
v.
Leslie Feher,
Appellant.

Motion for leave to appeal dismissed upon the
ground that the Court of Appeals does not have
jurisdiction to entertain it (see NY Const, art VI, § 3;
CPLR 5602).

4 Mo. No. 2012-160
In the Matter of David D., A Disbarred
Attorney,
 Appellant.
Grievance Committee of the Eighth Judicial
District,
 Respondent.

Motion for leave to appeal dismissed upon the
ground that the orders sought to be appealed from do
not finally determine the proceeding within the
meaning of the Constitution.
Motion for a stay dismissed as academic.
Judge Pigott took no part.

3 Mo. No. 2012-212
In the Matter of Rose Dewitt,
 Appellant,
 v.
New York State Board of Law Examiners,
 Respondent.

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

2 Mo. No. 2012-147
Donald Felix,
 Respondent,
 v.
Law Office of Thomas F. Liotti,
 Appellant.

Motion, insofar as it seeks leave to appeal from the
Appellate Division order denying reargument or, in
the alternative, leave to appeal to this Court,
dismissed upon the ground that such order does not
finally determine the proceeding within the meaning
of the Constitution; motion for leave to appeal
otherwise denied.
Motion for a stay dismissed as academic.

3 Mo. No. 2012-162
In the Matter of Ricardo Franco,
 Appellant,
 v.
Peckham Industries, Inc., et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2012-275
The People &c.,
 Respondent,
 v.
Tyray Gilliam,
 Appellant.

Motion by appellant pro se for removal of assigned
counsel and assignment of new counsel denied.

2 Mo. No. 2012-169
Viridiana Gonzalez,
 Appellant,
 v.
Natick NY Freeport Realty Corp. et al.,
 Respondents.

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

3 Mo. No. 2012-139
Peter Graziano, &c.,
 Appellant,
 v.
Andrea W. Evans, &c., et al.,
 Respondents.

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

4 Mo. No. 2012-157
In the Matter of Alexis H. et al.

Onondaga County Department of Social
Services,
 Respondent.
Jennifer T.,
 Appellant.

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

4 Mo. No. 2012-150
The People &c. ex rel. Eric Harris,
 Appellant,
 v.
New York State Department of Correctional
Services,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2012-167
In the Matter of Susan Hartman,
 Appellant,
 v.
Richard C. Hartman, Jr.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2012-141
In the Matter of Jonathan Headley,
 Appellant,
 v.
New York City Housing Authority, et al.,
 Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2012-210
Kaufmann's Carousel, Inc.,
 Appellant,
 v.
Carousel Center Company LP
et al.,
 Respondents.
(And Other Actions.)

Motion, insofar as it seeks leave to appeal from the December 2009 Appellate Division orders, dismissed as untimely (see CPLR 5513[b]; 2103[b][2]); motion, insofar as it seeks leave to appeal from the September 2011 Appellate Division order, dismissed upon the ground that such order sought to be appealed from does not finally determine the action within the meaning of the Constitution.

2 Mo. No. 2012-149
The People &c.,
 Respondent,
 v.
Reginald Lawson,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2012-156
The People &c.,
 Respondent,
 v.
Curtis Livingston,
 Appellant.

Motion for leave to appeal dismissed as untimely
(see CPLR 5513[b]).

3 Mo. No. 2012-104
In the Matter of Alfredo Lugo,
 Appellant,
 v.
Andrea W. Evans, &c.,
 Respondent.

Motion for leave to appeal dismissed upon the
ground that the issues presented have become moot.

1 Mo. No. 2012-170
In the Matter of Nilda Macri, &c.,
 Respondent,
 v.
Raymond W. Kelly, &c., et al.,
 Appellants.

Motion for leave to appeal granted.

1 Mo. No. 2012-138
In the Matter of Isaac Howard M. et al., &c.

Fatima M.,
 Appellant.
Jewish Child Care Association of New York,
 Respondent.

Motion, insofar as it seeks leave to appeal from that
portion of the Appellate Division order that affirmed
Family Court's order denying appellant's motion to
vacate a prior order of that court, dismissed upon the
ground that such portion of the order does not finally
determine the proceeding within the meaning of the
Constitution; motion for leave to appeal otherwise
denied.

1 Mo. No. 2012-145
Mercury Casualty Co.,
 Appellant,
 v.
Encare, Inc., &c.,
 Respondent.

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

1 Mo. No. 2012-142
In the Matter of Kharyn O., &c.

Karen O.,
Appellant,
Lutheran Social Services,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2012-174
Tony Perpignan,
Appellant,
v.
First Franklin Financial Corp.,
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. 2012-146
In the Matter of R. Bertil Peterson,
Appellant,
v.
State of New York Department of Motor
Vehicles, et al.,
Respondents.

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

4 Mo. No. 2012-195
In the Matter of Anthony Scro,
Appellant,
v.
Board of Education of Jordan-Elbridge
Central School District et al.,
Respondents.

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

2 Mo. No. 2012-151
In the Matter of Shore Development Partners,
Respondent,
v.
Board of Assessors, et al.,
Appellants.

Motion for leave to appeal dismissed upon the ground that the orders and judgments sought to be appealed from do not finally determine the proceedings within the meaning of the Constitution.

4 Mo. No. 2012-190
In the Matter of Kaniya T. et al.

Motion for leave to appeal denied.

Monroe County Department of Human
Services,
 Respondent;
Latoya T.,
 Appellant.

1 Mo. No. 2012-166
In the Matter of the State of New York,
 Respondent,
 v.
Enrique T. (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 and is not an order of
the type provided for in CPLR 5602(a)(2).

2 Mo. No. 2012-182
In the Matter of Don Weiner,
 Appellant,
 v.
State of New York, et al.,
 Respondents,
et al.,
 Respondent.

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