

August 28, 2012

CASE

2 No. 213 SSM 26
Maxine Mallory, as Executor of the Estate of
Matthew Mallory,
 Appellant,
 v.
Allstate Insurance Company,
 Respondent.

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

MOTIONS

3 Mo. No. 2012-842
In the Matter of 677 New Loudon
Corporation, &c.,
 Appellant,
 v.
State of New York Tax Appeals Tribunal et
al.,
 Respondents.

Motion by CMSG Restaurant Group, LLC for leave
to appear amicus curiae on the appeal herein granted
only to the extent that the proposed brief is accepted
as filed.

2 Mo. No. 2012-737
The People &c.,
 Respondent,
 v.
James Alcide,
 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.

1 Mo. No. 2012-816
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.

4 Mo. No. 2012-851
The People &c.,
 Respondent,
 v.
Donny P. Beaty,
 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.

1 Mo. No. 2012-858
In the Matter of Bronx Committee for Toxic
Free Schools, et al.,
 Respondents,
 v.
New York City School Construction
Authority, et al.,
 Appellants.

Motion by New Partners for Community
Revitalization for leave to file a brief amicus curiae
on the appeal herein granted and the proposed brief
is accepted as filed.

1 Mo. No. 2012-798
The People &c.,
 Respondent,
 v.
Thomas Brown,
 Appellant.

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 on the
appeal herein.

4 Mo. No. 2012-694
Jason Burlew, et al.,
 Plaintiffs,
Richard Katchuk,
 Respondent,
 v.
Talisman Energy USA Inc.,
 Appellant.

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

1 Mo. No. 2012-829
The People &c.,
 Respondent,
 v.
Marvin Byer,
 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. 2012-739
The People &c.,
Respondent,
v.
Jean Cantave,
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. 2012-692
The People &c.,
Respondent,
v.
Derek Chisholm,
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.

1 Mo. No. 2012-841
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. Two copies of the brief must be served and 19 copies filed within seven days.

1 Mo. No. 2012-543
Manuel De La Cruz, et al.,
Appellants,
v.
Caddell Dry Dock & Repair Co., Inc., et al.,
Respondents.

Motion for leave to appeal granted.

2 Mo. No. 2012-724
The People &c.,
Respondent,
v.
Josue Deliser,
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.

1 Mo. No. 2012-871
The People &c.,
 Respondent,
 v.
Richard Diaz,
 Appellant.

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 on the appeal herein.

4 Mo. No. 2012-754
Mark Dzielski et al.,
 Respondents,
 v.
Essex Insurance Company,
 Appellant,
et al.,
 Defendant.

Motion to amend remittitur denied.

3 Mo. No. 2012-530
In the Matter of James R. Farrell, &c.,
 Respondent,
 v.
Frank J. LaBuda, &c., et al.,
 Respondents,
Richard Grillo,
 Appellant.

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

2 Mo. No. 2012-882
In the Matter of Peter J. Galasso, &c., an
attorney and counselor-at-law.

Grievance Committee for the Ninth Judicial
District,
 Respondent;
Peter J. Galasso,
 Appellant.

Motion by Thomas F. Liotti 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. 2012-556
Roselyne Gisors,
 Appellant,
 v.
New York City Department of Education for
the City School District Region 10, et al.,
 Respondents.

Motion for leave to appeal denied with one hundred
dollars costs and necessary reproduction
disbursements.
Motion for a stay dismissed as academic.

4 Mo. No. 2012-856
The People &c.,
 Respondent,
 v.
James E. Guilford,
 Appellant.

Motion for assignment of counsel granted and Gerald
T. Barth, Esq., Frank H. Hiscock Legal Aid Society,
351 South Warren Street, Syracuse, NY 13202
assigned as counsel to the appellant on the appeal
herein.

1 Mo. No. 2012-873
Hudson Valley Federal Credit Union,
 Appellant,
 v.
New York State Department of Taxation and
Finance, et al.,
 Respondents.

Motion by Association of Towns of the State of New
York et al. for leave to file a brief amici curiae on the
appeal herein granted and the proposed brief is
accepted as filed. Two copies of the brief must be
served and 10 copies filed within seven days.
Judge Smith took no part.

 Mo. No. 2012-763
The People &c.,
 Respondent,
 v.
Roosevelt Jennings,
 Appellant.

Motion for assignment of counsel granted and Steven
Banks, Esq., The Legal Aid Society, 199 Water
Street, New York, NY 10038 assigned as counsel to
the appellant on the appeal herein.

4 Mo. No. 2012-836
The People &c.,
 Respondent,
 v.
Marche Johnson,
 Appellant.

Motion for assignment of counsel granted and Adam
H. Van Buskirk, Esq., 3100 State Route 90, Aurora,
NY 13026 assigned as counsel to the appellant on the
appeal herein.

1 Mo. No. 2012-723
The People &c.,
 Respondent,
 v.
Lester Q. Jones,
 Appellant.

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 on the appeal herein.

1 Mo. No. 2012-617
In the Matter of Katharine, &c.

Claire G.,
 Respondent,
 v.
Edward K.,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2012-776
The People &c.,
 Respondent,
 v.
Thomas Lee,
 Appellant.

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 on the appeal herein.

1 Mo. No. 2012-532
In the Matter of the State of New York,
 Respondent,
 v.
Gary M.,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2012-866
The People &c.,
 Respondent,
 v.
Franklin McPherson,
 Appellant.

Motion for assignment of counsel granted and Jonathan I. Edelstein, Esq., 271 Madison Avenue, 20th Floor, New York, NY 10016 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2012-535
Merrill Lynch, Pierce, Fenner & Smith,
Incorporated, et al.,
 Respondents,
 v.
Global Strat Inc., &c., et al.,
 Defendants,
Ezequiel Nasser, et al.,
 Appellants.

Motion for leave to appeal granted.

1 Mo. No. 2012-662
The People &c.,
 Respondent,
 v.
Robert Mitchell,
 Appellant.

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 on the
appeal herein.

2 Mo. No. 2012-789
The People &c.,
 Respondent,
 v.
Chadon Morris,
 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.

1 Mo. No. 2012-701
The People &c.,
 Appellant,
 v.
George Oliveras,
 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 respondent on the
appeal herein.

1 Mo. No. 2012-531
Liszeida Perez, &c.,
 Appellant,
 v.
KeySpan Corporation, et al.,
 Respondents.

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

1 Mo. No. 2012-818
In the Matter of Jacqueline Perez,
 Respondent,
 v.
John B. Rhea, &c.,
 Appellant.

Motion by Housing Court Answers, 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 19 copies
filed within seven days.

1 Mo. No. 2012-790
Nandkumar Ramkumar,
 Appellant,
 v.
Grand Style Transportation Enterprises Inc.,
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.

Grand Style Transportation Enterprises Inc.,
et al.,
 Third-Party Respondents,
 v.
Georgina D. Castillo,
 Third-Party Respondent.

3 Mo. No. 2012-655
The People &c.,
 Respondent,
 v.
Frantzy Rodney,
 Appellant.

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

3 Mo. No. 2012-784
The People &c.,
 Respondent,
 v.
Reece Rudolph,
 Appellant.

Motion for assignment of counsel granted and Jack
H. Weiner, Esq., 1488 State Route 203, Chatham,
NY 12037 assigned as counsel to the appellant on the
appeal herein.

1 Mo. No. 2012-695
The People &c.,
 Respondent,
 v.
Nicholas Sanchez,
 Appellant.

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 on the appeal herein.

1 Mo. No. 2012-799
The People &c.,
 Respondent,
 v.
Mikal Smith,
 Appellant.

Motion for assignment of counsel granted and Leonard J. Levenson, Esq., 255 Broadway, Room 1804, New York, NY 10007 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2012-548
In the Matter of Chana Taub,
 Appellant,
 v.
Simon Taub,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2012-730
The People &c.,
 Respondent,
 v.
Chester J. Thomas,
 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.

3 Mo. No. 2012-785
The People &c.,
 Respondent,
 v.
Eddie Thompson, Jr.,
 Appellant.

Motion for assignment of counsel granted and Jack H. Weiner, Esq., 1488 State Route 203, Chatham, NY 12037 assigned as counsel to the appellant on the appeal herein.

3 Mo. No. 2012-536
James D. Van Hoesen,
 Appellant,
 v.
Eric Dolen, et al.,
 Respondents,
et al.,
 Defendants.
(And Another Action.)

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

2 Mo. No. 2012-863
The People &c.,
 Respondent,
 v.
Julio Velez,
 Appellant.

Motion for assignment of counsel granted and Mark Diamond, Esq., PO Box 287356 Yorkville Station, New York, NY 10128 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2012-831
In the Matter of Dashawn W.,
et al. &c.

Administration for Children's Services,
 Respondent,
Antoine N.,
 Appellant,
et al.,
 Respondent.

Motion for poor person relief granted.

4 Mo. No. 2012-721
The People &c.,
 Respondent,
 v.
Robert L. Worden,
 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.