

February 09, 2012

**CASES**

3                    No. 14  
In the Matter of Kathleen F. Cappellino,  
    Appellant,  
    v.  
Baumann & Sons Bus Company  
et al.,  
    Respondents.  
Workers' Compensation Board,  
    Respondent.

Order reversed, with costs, and case remitted to the Appellate Division, Third Department, with directions to remand to the Workers' Compensation Board for further proceedings in accordance with the memorandum herein.  
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

1                    No. 8  
The People &c.,  
    Respondent,  
    v.  
Corey Gamble,  
    Appellant.

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

1                    No. 32  
The People &c.,  
    Respondent,  
    v.  
Saleem Khan,  
    Appellant.

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

2                    No. 3  
Mario A. Pesa et al.,  
    Respondents,  
    v.  
Yoma Development Group, Inc.,  
    Appellant,  
et al.,  
    Defendants.

Judgment appealed from and order of the Appellate Division brought up for review modified, without costs, by denying plaintiffs' motion for summary judgment, and as so modified, affirmed.  
Opinion by Judge Smith.  
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Pigott and Jones concur.

2                    No. 11  
The People &c.,  
    Respondent-Appellant,  
    v.  
Santos Quinto,  
    Appellant-Respondent.

Order affirmed.  
Opinion by Judge Graffeo.  
Chief Judge Lippman and Judges Ciparick, Smith,  
Pigott and Jones concur.  
Judge Read dissents in part in an opinion.

1                    No. 27  
In the Matter of Stephen Rosenblum,  
    Respondent,  
    v.  
The New York City Conflicts of Interest  
Board, et al.,  
    Appellants.

Order reversed, with costs, and petition dismissed.  
Opinion by Judge Read.  
Chief Judge Lippman and Judges Ciparick, Graffeo  
and Pigott concur.  
Judge Smith dissents in an opinion in which Judge  
Jones concurs.

3                    No. 6  
SPCA of Upstate New York, Inc., et al.,  
    Appellants,  
    v.  
American Working Collie Association et al.,  
    Respondents.

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

3                    No. 17  
In the Matter of Daniel Williams,  
    Appellant,  
    v.  
Brian Fischer, &c.,  
    Respondent.

Judgment affirmed, without costs, in a memorandum.  
Chief Judge Lippman and Judges Ciparick, Graffeo,  
Read, Smith, Pigott and Jones concur.

## MOTIONS

2 Mo. No. 2011-1134

Joseph M. Adrian, et al.,  
Appellants,

v.

Town of Yorktown,  
Respondent.

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

4 Mo. No. 2011-1282

Altshuler Shaham Provident Funds, Ltd.,  
Appellant,

v.

GML Tower, LLC, et al.,  
Defendants,  
The Pike Company, Inc., et al.,  
Respondents.

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. 2011-1310

In the Matter of Walter Aparicio,  
Appellant,

v.

Environmental Control Board of City of New  
York,  
Respondent.

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

4 Mo. No. 2012-134

The People &c.,  
Respondent,

v.

Trevis D. Baker,  
Appellant.  
(Appeal No. 1)

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.

4 Mo. No. 2012-135  
The People &c.,  
Respondent,  
v.  
Trevis Baker,  
Appellant.  
(Appeal No. 2)

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. 2012-119  
The People &c.,  
Respondent,  
v.  
Robert Barksdale,  
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. 2011-1142  
Danielle Biton,  
Appellant,  
Crystal Biton, also known as Saphyre  
Redford, &c.,  
Plaintiff,  
v.  
Aloft Corporate Travel, Inc.,  
et al.,  
Respondents.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2011-1141  
Danielle Biton, et al.,  
Appellants,  
v.  
Ameena Meer, et al.,  
Respondents.

Motion for reargument of motion for leave to appeal denied.

1 Mo. No. 2011-1139  
Crystal Biton, also known as Saphyre  
Redford, and Danielle Biton,  
Appellants,  
v.  
State Farm Insurance Company,  
et al.,  
Respondents.

Motion for reargument of motion for leave to appeal  
denied.

1 Mo. No. 2011-1138  
Crystal Biton, also known as Saphyre  
Redford,  
Appellant,  
v.  
Joe Turco, et al.,  
Respondents.

Motion for reargument of motion for leave to appeal  
denied.

4 Mo. No. 2012-82  
The People &c.,  
Respondent,  
v.  
Dale Bradley,  
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. 2011-1275  
Lisa Bruno,  
Appellant,  
v.  
Stephen Bruno, et al.,  
Respondents.

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

1 Mo. No. 2011-1262  
Carl Andrews & Associates, Inc.,  
Appellant,  
v.  
Office of the Inspector General of the State of  
New York et al.,  
Respondents.

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

1                    Mo. No. 2011-1285  
In the Matter of Countrywide Insurance  
Company,  
          Appellant,  
          v.  
DHD Medical, P.C.,  
          Respondents.

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

3                    Mo. No. 2012-67  
The People &c.,  
          Respondent,  
          v.  
Donald M. Dove,  
          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. 2011-1315  
Eurovision 426 Development, LLC,  
          Respondent,  
          v.  
26-01 Astoria Development, LLC,  
          Appellant,  
et al.,  
          Defendant.

Motion for leave to appeal denied.

3                    Mo. No. 2011-1300  
The People &c.,  
          Respondent,  
          v.  
Kenneth Fuller,  
          Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2012-53  
The People &c.,  
          Respondent,  
          v.  
Corey Gamble,  
          Appellant.

Motion to supplement pro se appendix granted.

2                    Mo. No. 2011-1295  
Donald Haines,  
    Appellant,  
    v.  
Dick's Concrete Co., Inc.,  
et al.,  
    Respondents.

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

1                    Mo. No. 2011-1303  
In the Matter of Aaliyah H., &c.,  
    Appellant.

Motion for leave to appeal denied.

3                    Mo. No. 2011-1273  
Eric R. Hess, &c.,  
    Respondent,  
    v.  
Karen J. Wojcik-Hess,  
    Appellant,  
et al.,  
    Defendant.

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

3                    Mo. No. 2011-1261  
In the Matter of Kinderhook Development,  
LLC, et al.,  
    Respondents,  
    v.  
City of Gloversville Planning Board,  
    Appellant.

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

2                    Mo. No. 2012-89  
In the Matter of Michael Lesher,  
    Appellant,  
    v.  
Charles J. Hynes, &c., et al.,  
    Respondents.

Motion by New York Civil Liberties Union 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. 2012-133  
The People &c.,  
Appellant,  
v.  
Brandon McFadden,  
Respondent.

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 respondent on the appeal herein.

4 Mo. No. 2011-1314  
In the Matter of Niagara County Department  
of Social Services, on behalf of Meghan J.  
Hueber, &c.,  
Respondent,  
v.  
Roger L. Hueber,  
Appellant.

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

4 Mo. No. 2012-87  
The People &c.,  
Respondent,  
v.  
Darnell Norton,  
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.

2 Mo. No. 2012-144  
The People &c.,  
Respondent,  
v.  
Michael Palmer,  
Appellant.

Motion for poor person relief granted.

1 Mo. No. 2012-88  
The People &c.,  
Respondent-Appellant,  
v.  
Christopher Perino,  
Appellant-Respondent.

Motion to supplement the record denied.

1                    Mo. No. 2011-1245  
Freda Gates Pozefsky,  
    Appellant,  
    v.  
Richard T. Aulisi, &c., et al.,  
    Respondents,  
John Does, &c., et al.,  
    Defendants.

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

1                    Mo. No. 2011-1272  
Felicito Ramirez,  
    Appellant,  
    v.  
Willow Ridge Country Club, Inc., et al.,  
    Respondents.

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

2                    Mo. No. 2011-1312  
The People &c.,  
    Respondent,  
    v.  
Marshall Rosado,  
    Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2011-1320  
Jennifer Ryan, et al.,  
    Appellants,  
    v.  
New York City Transit Authority,  
    Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2011-1293  
In the Matter of Juliana Victoria S. et al. &c.

Benny William W.,  
Respondent;  
Jewish Child Care Association of New York,  
Respondent.  
Azmara N.G.,  
Appellant,  
Jessica Stephanie S., et al.,  
Respondents.

Motion for leave to appeal denied.

3                    Mo. No. 2011-1111  
In the Matter of Benjamin Seegars,  
Appellant,

v.  
Brian S. Fischer, &c., et al.,  
Respondents.

Motion for reargument of motion for leave to appeal denied.

2                    Mo. No. 2011-1278  
The People &c.,  
Respondent,

v.  
Raymond Shinn,  
Appellant.

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

4                    Mo. No. 2011-1327  
The People &c.,  
Respondent,

v.  
Angel M. Valentin,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2011-1292  
In the Matter of Andrew William V.  
(Anonymous).

Westchester County Department of Social  
Services,  
Respondent;  
Chantal Jean G. (Anonymous),  
Appellant.  
(And Another Proceeding.)

Motion for reargument of motion for leave to appeal  
denied.

2 Mo. No. 2012-62  
The People &c.,  
Respondent,  
v.  
Daniel Vasquez,  
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.

4 Mo. No. 2012-120  
The People &c.,  
Respondent,  
v.  
Samuel Walker,  
Appellant.

Motion for assignment of counsel granted and David  
C. Schopp, Esq., The Legal Aid Bureau of Buffalo,  
Inc., 237 Main Street, Suite 1602, Buffalo, NY  
14203 assigned as counsel to the appellant on the  
appeal herein.

1 Mo. No. 2011-1304  
In the Matter of Breeana R.W., &c.

Antigone W.,  
Appellant,  
Episcopal Social Services,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2012-92  
The People &c.,  
Respondent,  
v.  
Carl Watson,  
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. 2011-1311  
The People &c.,  
Respondent,  
v.  
Richard C. Wiedeman,  
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2012-154  
Jill Williams, et al.,  
Respondents,  
v.  
State of New York,  
Appellant.

Motion by Marvin Bernstein, Director Mental Hygiene Legal Service, First Judicial Department 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. Two copies of the brief must be served and 19 copies filed within seven days.

1 Mo. No. 2011-1170  
In the Matter of World Trade Center Bombing  
Litigation.  
Steering Committee, et al.,  
Respondents,  
v.  
The Port Authority of New York and New  
Jersey,  
Appellant.

Motion for reargument denied with one hundred dollars costs and necessary reproduction disbursements.  
Judges Ciparick, Graffeo, Read, Pigott, Jones, Prudenti and Mercure concur.  
Chief Judge Lippman and Judge Smith took no part.

4                    Mo. No. 2012-103  
The People &c.,  
    Respondent,  
    v.  
Morris B. Yuson,  
    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. 2011-1140  
Pinhas Zachery,  
    Respondent,  
    v.  
Crystal Biton,  
    Appellant.

Motion for reargument of motion for leave to appeal  
denied.