

February 14, 2012

CASES

1 No. 25
Leslie Kahn,
 Appellant,
 v.
New York City Department of Education et
al.,
 Respondents.

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

1 No. 26
In the Matter of Doreen Nash,
 Appellant,
 v.
The Board of Education of the City School
District of the City of New York, et al.,
 Respondents.

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

1 No. 22
The People &c.,
 Respondent,
 v.
Kevin Smith,
 Appellant.

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

1 No. 31
The People &c.,
 Appellant,
 v.
Gilberto Sosa,
 Respondent.

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

1 No. 29
The People &c.,
 Respondent,
 v.
Anthony Steward,
 Appellant.

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

1 No. 2
In the Matter of Terrace Court, LLC,
 Appellant,
 v.
New York State Division of Housing and
Community Renewal,
 Respondent,
Robert Katel, et al.,
 Intervenors-Respondents.

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

1 No. 84 SSM 2
VBH Luxury, Incorporated,
 Plaintiff,
 v.
940 Madison Associates LLC,
 Third-Party Respondent,
Excelsior Insurance Company,
 Third-Party Appellant,
et al.,
 Third-Party Defendant.

On review of submissions pursuant to section 500.11
of the Rules, order reversed, with costs, judgment of
Supreme Court, New York County, reinstated, and
certified question answered in the negative, in a
memorandum.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Smith, Pigott and Jones concur.

1 No. 30
The People &c.,
 Respondent,
 v.
Nafis Wright,
 Appellant.

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

1 No. 1
Yenem Corp.,
 Appellant,
 v.
281 Broadway Holdings, et al.,
 Respondents,
(And Other Actions.)

Randall Co., LLC,
 Appellant,
 v.
281 Broadway Holdings, et al.,
 Respondents,
John Doe, et al.,
 Defendants.

281 Broadway Holdings LLC, et al.,
 Third-Party Plaintiffs,
 v.
Hunter-Atlantic, Inc.,
 Third-Party Respondent,
et al.,
 Third-Party Defendants.

Order reversed, with costs, in Yenem Corp. v 281 Broadway Holdings, plaintiff's motion for summary judgment on the issue of liability granted, in Randall Co., LLC v 281 Broadway Holdings, order of Supreme Court, New York County, reinstated, and certified question answered in the negative. Opinion by Judge Ciparick. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Jones concur.

MOTIONS

2 Mo. No. 2011-1328

The People &c.,
Respondent,

v.

Apolonio Abreu,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2011-1343

Aris Multi-Strategy Fund, L.P.,
et al.,

Appellants,

v.

Accipiter Life Sciences Fund II (QP), L.P., et
al.,

Respondents.

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

1 Mo. No. 2011-1344

Cleofoster Baptiste,
Appellant,

v.

"John Doe," et al.,
Respondents.

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

2 Mo. No. 2011-1381

In the Matter of Matthew Berchielli, et al.,
Appellants,

v.

Town of New Windsor, et al.,
Respondents.

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

3 Mo. No. 2012-28
The People &c. ex rel. Julio C. Borrell,
Appellant,
v.
New York State Board of Parole,
Respondent.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2012-20
The People &c.,
Respondent,
v.
Anthony Bowden,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2011-1355
In the Matter of Nathaniel Boyd,
Appellant,
v.
Nicole Crepeau,
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2011-1352
The People &c.,
Respondent,
v.
Charles Carbone,
Appellant.

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

1 Mo. No. 2011-1378
Cheneise E. Carey,
Appellant,
v.
Empire Paratransit Corp.,
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.

1 Mo. No. 2011-1376
Robert V. Cattani, M.D.,
 Appellant,
 v.
Richard A. Marfuggi, M.D.,
 Respondent.
Richard Paul Stone, Esq.,
 Nonparty-Appellant.

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

3 Mo. No. 2011-1287
In the Matter of Clinton County et al.,
 Petitioners,
Towns of Broadalbin et al.,
 Appellants,
 v.
Adirondack Park Agency et al.,
 Respondents.
(And Another Action/Proceeding.)

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

4 Mo. No. 2011-1340
Joan M. Domin, &c.,
 Appellant,
 v.
Starpoint Central School District,
 Respondent.

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

3 Mo. No. 2011-1256
In the Matter of Jonathan EE., &c.

Alyssa M. Barreiro et al., &c.,
 Appellants;
Alan EE. et al.,
 Respondents,
et al.,
 Respondent.
(And Other Proceedings.)

Motion for leave to appeal denied.

1 Mo. No. 2011-1321
The Empire Center for New York State
Policy, &c.,
 Appellant,
 v.
New York City Police Pension Fund,
 Respondent.

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

1 Mo. No. 2011-1363
The Empire Center for New York State
Policy, &c.,
 Appellant,
 v.
New York City Police Pension Fund,
 Respondent.

Motion by The Albany Times Union, et al. for leave
to file a brief amici curiae on the motion for leave to
appeal herein denied.

1 SSD 1
Bernard H. Glatzer,
 Appellant,
 v.
Bear, Stearns & Co., Inc., et al.,
 Respondents.

Appeal dismissed without costs, by the Court sua
sponte, upon the ground that the order appealed from
does not finally determine the action within the
meaning of the Constitution.

3 Mo. No. 2011-1358
Shawn Green,
 Appellant,
 v.
State of New York,
 Respondent.

Motion, insofar as it seeks leave to appeal from the
Court of Claims judgment, dismissed upon the
ground that it does not lie (see CPLR 5602); motion,
insofar as it seeks leave to appeal from the Appellate
Division order denying appellant's motion for
reargument, dismissed upon the ground that such
order does not finally determine the action within the
meaning of the Constitution; motion for leave to
appeal otherwise denied.

1 Mo. No. 2011-1286
In the Matter of Heidi Higgins,
Appellant,
v.
Raymond Kelly, &c., et al.,
Respondents.

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

1 Mo. No. 2011-1341
Judith Klein,
Appellant,
v.
New York City Administration for Children's
Services,
Respondent.

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

3 Mo. No. 2011-1350
The People &c.,
Respondent,
v.
Walter Kruger,
Appellant.

Motion for leave to appeal denied.

SSD 3
Senator Elizabeth O'Connor Little, et al.,
Appellants,
v.
New York State Task Force on Demographic
Research and Reapportionment et al.,
Defendants,
Michael Bailey, et al.,
Intervenors-Respondents.

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, Third Department, upon the ground that a direct appeal does not lie when questions other than the constitutional validity of a statutory provision are involved (NY Const, art VI, §§ 3[b][2], 5[b]; CPLR 5601[b][2]).

1 Mo. No. 2012-5
In the Matter of Timothy Reynaldo L.M., &c.

Frances M.,
Appellant,
et al.,
Respondent,
The Children's Aid Society,
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2012-17
In the Matter of Jamaica M.
et al., &c.

Schenectady County Department of Social
Services,
Respondent;
Hakeem N.,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2011-1370
In the Matter of Nechama Markovici,
Appellant,
v.
Lazar Markovici,
Respondent.

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.
Motions for poor person relief and a stay dismissed
as academic.

2 Mo. No. 2011-1326
Charles McKie,
Appellant,
v.
Adam Saheed, &c., et al.,
Defendants,
Flagstar Bank, FSB,
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.
Motion for a stay and ancillary relief dismissed as
academic.

3 Mo. No. 2011-1209
In the Matter of M.G.M. Insulation, Inc., et
al.,
Appellants,
v.
Colleen C. Gardner, &c.,
Respondent.

Motion for leave to appeal granted.

3 Mo. No. 2011-1263
In the Matter of M.G.M. Insulation, Inc., et
al.,
Appellants,
v.
Colleen C. Gardner, &c.,
Respondent.

Motion by the Empire State Chapter of the
Associated Builders and Contractors, Inc. for leave
to file a brief amicus curiae on the motion for leave
to appeal herein granted and the brief is accepted as
filed, and for leave to file a brief amicus curiae on
the appeal herein granted, three copies of the brief to
be served and an original and 19 copies filed within
thirty days.

3 Mo. No. 2011-1264
In the Matter of M.G.M. Insulation, Inc., et
al.,
Appellants,
v.
Colleen C. Gardner, &c.,
Respondent.

Motion by the Firemen's Association of the State of
New York for leave to file a brief amicus curiae on
the motion for leave to appeal herein granted and the
brief is accepted as filed, and for leave to file a brief
amicus curiae on the appeal herein granted, three
copies of the brief to be served and an original and
19 copies filed within thirty days.

3 Mo. No. 2011-1265
In the Matter of M.G.M. Insulation, Inc., et
al.,
Appellants,
v.
Colleen C. Gardner, &c.,
Respondent.

Motion by Associated General Contractors of New
York State, LLC for leave to file a brief amicus
curiae on the motion for leave to appeal herein
granted and the brief is accepted as filed, and for
leave to file a brief amicus curiae on the appeal
herein granted, three copies of the brief to be served
and an original and 19 copies filed within thirty days.

4 Mo. No. 2011-1335
In the Matter of Crystal Lynn Moore,
Respondent,
v.
Michael W. Kazacos,
Appellant.

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

1 Mo. No. 2011-1307
Michael Mulgrew, &c.,
Appellant,
v.
Board of Education of the City School
District of the City of New York, et al.,
Respondents.
Dow Jones & Company, Inc.,
et al.,
Intervenors-Respondents.

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

1 Mo. No. 2011-1380
Michael Mulgrew, &c.,
Appellant,
v.
Board of Education of the City School
District of the City of New York, et al.,
Respondents.
Dow Jones & Company, Inc.,
et al.,
Intervenors-Respondents.

Motion by New York State United Teachers for
leave to file a brief amicus curiae on the motion for
leave to appeal herein granted and the brief is
accepted as filed, and for leave to file a brief amicus
curiae on the appeal herein dismissed as academic.

4 Mo. No. 2011-1361
The People &c. ex rel. Dexter Murray,
Appellant,
v.
New York State Department of Correctional
Services,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2011-1283
In the Matter of the State of New York,
 Respondent,
 v.
C.B.,
 Appellant.

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.
Motion for poor person relief dismissed as academic.

3 Mo. No. 2011-1337
In the Matter of Nathan O.,
 Respondent,
 v.
Jennifer P. et al.,
 Appellants.
(And Another Related Proceeding.)

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.

1 Mo. No. 2011-1356
Marko S. &c.,
 Respondent,
 v.
Heather S. &c.,
 Appellant.

Motion for reargument and other relief denied.

2 Mo. No. 2012-9
The People &c.,
 Respondent,
 v.
Jose Santiago,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2011-1267
In the Matter of Donnell Shelton,
 Appellant,
 v.
Hon. Vito C. Caruso, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2012-8
Barbara Urciuoli,
 Appellant,
 v.
Lawrence Hospital Center,
et al.,
 Respondents.

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

4 Mo. No. 2011-1227
In the Matter of Petra Wydra,
 Respondent,
 v.
City of Rochester,
 Appellant.

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

3 Mo. No. 2011-1362
In the Matter of Telsa Z., &c.

Clinton County Department of Social
Services,
 Respondent;
Denise Z.,
 Appellant.

Motion for leave to appeal denied.