

January 05, 2012

**CASE**

2                      No. 229  
Board of Education of the Garrison Union  
Free School District,  
                    Respondent,  
            v.  
Greek Archdiocese Institute of St. Basil, Also  
Known as St. Basil Academy,  
                    Appellant,  
et al.,  
                    Defendants.

Order affirmed, with costs, and certified question  
answered in the affirmative.  
Opinion by Judge Pigott.  
Chief Judge Lippman and Judges Ciparick, Graffeo,  
Read, Smith and Jones concur.

## MOTIONS

3                    Mo. No. 2012-3  
In the Matter of Albany Law School et al.,  
                    Respondents-Appellants,  
                    v.  
New York State Office of Mental Retardation  
and Developmental Disabilities et al.,  
                    Appellants-Respondents.

Motion by NYSARC, Inc. for leave to file a brief  
amicus curiae on the appeal herein granted and the  
proposed brief is accepted as filed.

                         Mo. No. 2011-1309  
The People &c.,  
                    Respondent,  
                    v.  
Emil Best,  
                    Appellant.

Motion for assignment of counsel granted and Kent  
V. Moston, Esq., Legal Aid Society of Nassau  
County, One Helen Keller Way, Hempstead, NY  
11550 assigned as counsel to the appellant on the  
appeal herein.

3                    Mo. No. 2011-1155  
In the Matter of Juan Bran,  
                    Respondent,  
                    v.  
Ralph Wimbish,  
                    Appellant,  
et al.,  
                    Respondent.  
Workers' Compensation Board,  
                    Respondent.

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

1                    Mo. No. 2011-1333  
The People &c.,  
                    Respondent,  
                    v.  
Christopher Clark,  
                    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. 2011-1181  
William B. Clarke,  
Respondent,  
v.  
Rafael Rodriguez,  
Appellant.

Motion for reargument dismissed as untimely (see  
Rules of Ct of Appeals [22 NYCRR] § 500.24[b]).

1                    Mo. No. 2011-1345  
The People &c.,  
Respondent,  
v.  
Alberto de Luna,  
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.

3                    Mo. No. 2011-1057  
Lisa L. Dever,  
Appellant,  
v.  
Mark DeVito 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.

3                    Mo. No. 2011-1190  
In the Matter of Kayden E.  
et al., &c.

Motion for leave to appeal denied.

Otsego County Department of Social  
Services,  
Respondent;  
Luis E.,  
Appellant;  
et al.,  
Respondent.

1                    Mo. No. 2012-19  
Global Reinsurance Corporation - U.S.  
Branch, &c.,  
                    Respondent,  
                    v.  
Equitas Ltd., et al.,  
                    Appellants.

Motion by Society of Lloyd's 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.

2                    Mo. No. 2011-1193  
John Gray,  
                    Appellant,  
                    v.  
City of New York, et al.,  
                    Respondents.

Motion for leave to appeal denied.

1                    Mo. No. 2012-2  
Hudson Valley Federal Credit Union,  
                    Appellant,  
                    v.  
New York State Department of Taxation and  
Finance, et al.,  
                    Respondents.

Motion by Credit Union Association of New York 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.

1                    Mo. No. 2012-32  
Hudson Valley Federal Credit Union,  
                    Appellant,  
                    v.  
New York State Department of Taxation and  
Finance, et al.,  
                    Respondents.

Motion by National Association of Federal Credit Unions for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed.

                         Mo. No. 2011-1330  
The People &c.,  
                    Respondent,  
                    v.  
Marek Hyra,  
                    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. 2011-1125  
Magwitch, L.L.C.,  
                    Appellant,  
                    v.  
Pusser's Inc., &c., et al.,  
                    Respondents.

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

4                    Mo. No. 2011-1187  
In the Matter of Tiffany M.  
et al.

Motion for leave to appeal denied.

Erie County Department of Social Services,  
                    Respondent;  
Jolanda M.,  
                    Appellant.

1                    Mo. No. 2012-1  
The People &c.,  
                    Respondent,  
                    v.  
Danny Martin,  
                    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.

1                    Mo. No. 2012-24  
The People &c. ex rel. Shaun McManus,  
                    Appellant,  
                    v.  
Martin F. Horn, &c.,  
                    Respondent.

Motion by New York Civil Liberties Union 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.

3                    Mo. No. 2011-1308  
The People &c.,  
                    Respondent,  
                    v.  
Lonnie R. Meckwood,  
                    Appellant.

Motion for assignment of counsel granted and Brent R. Stack, Esq., c/o Fitzsimmons, Mack & Mills, P.C., 3223 Church Street, PO Box 811, Valatie, NY 12184 assigned as counsel to the appellant on the appeal herein.

3                    Mo. No. 2011-1169  
In the Matter of Raymond Mentor,  
                    Appellant,  
                    v.  
New York State Division of Parole, et al.,  
                    Respondents.

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

2                    Mo. No. 2011-1094  
John Nieves, Jr.,  
                    Appellant,  
                    v.  
City of New York,  
                    Respondent.

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

2                    Mo. No. 2011-1176  
Stephanie Ogman, &c., et al.,  
                    Respondents,  
                    v.  
Mastrantonio Catering, Inc.,  
                    Appellant.

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

2                    Mo. No. 2011-1152  
In the Matter of Linda Rosenhauch,  
                    Appellant,  
                    v.  
David J. Swarts, et al.,  
                    Respondents.

Motion for leave to appeal denied.

1                    Mo. No. 2011-1269  
The People &c.,  
                    Respondent,  
                    v.  
Paul Tillman,  
                    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. 2011-1175  
In the Matter of Kellyann Toale,  
                    Appellant,  
                    v.  
Michael Caravella,  
                    Respondent.

Motion for leave to appeal dismissed upon the ground that appellant has failed to demonstrate timeliness as required by Rules of the Court of Appeals (22 NYCRR) § 500.22(b)(2).

3                    Mo. No. 2011-1290  
The People &c.,  
                    Respondent,  
                    v.  
Keith Washington,  
                    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. 2011-1374  
The People &c.,  
                    Respondent,  
                    v.  
Tyrone Watson,  
                    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.

3                    Mo. No. 2011-1189  
In the Matter of John Wayman  
et al.,  
                    Respondents,  
                    v.  
Kelly Ramos,  
                    Appellant,  
et al.,  
                    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.

3                    Mo. No. 2011-1188  
In the Matter of Melissa WW.,  
                    Appellant,  
                    v.  
Conley XX.,  
                    Respondent.

Motion for leave to appeal denied.

Mo. No. 2011-1325  
In the Matter of the Honorable Lafayette D.  
Young, Jr., a Justice of the Macomb Town  
Court, St. Lawrence County,  
Petitioner,  
For Review of a Determination of State  
Commission on Judicial Conduct,  
Respondent.

Motion to waive strict compliance with certain  
requirements concerning the record on review herein  
granted to the extent that consideration of the  
determination of the Commission on Judicial  
Conduct may be prosecuted upon ten copies of the  
record on review.

3 Mo. No. 2011-1281  
In the Matter of Hailey ZZ., &c.  
  
Tompkins County Department of Social  
Services,  
Respondent;  
Ricky ZZ.,  
Appellant.

Motion by Legal Aid Bureau of Buffalo, 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.