

June 26, 2012

CASES

3 No. 69
Ayube Hussein, as Parent of a Student in the
Albany City School District, et al.,
 Respondents,
 v.
State of New York,
 Appellant.

Order affirmed, with costs, and certified question answered in the negative, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Smith, Pigott and Jones concur, Judge Ciparick in a separate opinion, and Judge Smith in a separate opinion in which Judge Pigott concurs. Judge Read dissents in an opinion.

1 No. 210 SSM 20
The People &c.,
 Respondent,
 v.
Danny Martin,
 Appellant.

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

4 No. 133
The People &c.,
 Respondent,
 v.
Donyell J. McKenzie,
 Appellant.

Order reversed and a new trial ordered. Opinion by Chief Judge Lippman. Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

1 No. 212 SSM 23
The People &c.,
 Respondent,
 v.
Carlos Miranda,
 Appellant.

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

1 No. 88
Osqugama F. Swezey,
 Appellant,
 v.
Merrill Lynch, Pierce, Fenner & Smith,
Incorporated,
 Respondent,
Philippine National Bank, et al.,
 Intervenors-Respondents.

 No. 129
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.

1 No. 147
Jasmine Zheng, et al.,
 Appellants,
 v.
The City of New York, et al.,
 Respondents.

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

Determined sanction accepted, without costs, and
Lafayette D. Young, Jr. removed from the office of
Justice of the Macomb Town Court, St. Lawrence
County.
Opinion Per Curiam.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Smith, Pigott and Jones concur.

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

MOTIONS

4 Mo. No. 2012-453
A.J. Baynes Freight Contractors, Ltd., et al.,
 Respondents,
 v.
Norman L. Polanski, Jr., &c.,
et al.,
 Appellants.

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

2 Mo. No. 2012-444
Brenda Andrews et al.,
 Appellants,
 v.
New York City Housing Authority,
 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. 2012-429
In the Matter of Jeffrey Baker,
 Respondent,
 v.
Poughkeepsie City School District, et al.,
 Appellants.

Motion for reargument denied with one hundred dollars costs and necessary reproduction disbursements.

1 Mo. No. 2012-433
In the Matter of Bankers Trust Corporation et al.,
 Appellants,
 v.
Tax Appeals Tribunal of the City of New York, et al.,
 Respondents.

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

4 Mo. No. 2012-434
In the Matter of John B. et al.

Erie County Department of Social Services,
Respondent;
Julie W.,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2012-425
Christ the King Regional High School, et al.,
Appellants,
v.
Zurich Insurance Company of North America,
Respondent.

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

1 Mo. No. 2012-442
The People &c.,
Respondent,
v.
Carlos Correa,
Appellant.

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

1 Mo. No. 2012-417
Robert A. Denenberg, &c.,
Appellant,
v.
Warren Rosen, et al.,
Respondents,
John Repetti, et al.,
Appellants.
(And Other Actions.)

Motions, insofar as they seek leave to appeal against defendants Bankers Life of New York, Kenneth R. Hartstein, ECI Pension Services, LLC, Economic Concepts Inc., Richard C. Smith, and Bryan Cave, LLP, denied; motions, insofar as they seek leave to appeal against other parties, dismissed upon the ground that, as to such other parties, the order sought to be appealed from does not finally determine the action within the meaning of the Constitution.

1 Mo. No. 2012-541
In the Matter of Develop Don't Destroy
(Brooklyn), Inc., et al.,
 Respondents,
 v.
Empire State Development Corporation et al.,
 Appellants.
(And Another Action.)

Motions for leave to appeal denied.

3 SSD 30
In the Matter of Angel Diaz,
 Appellant,
 v.
Tax Appeals Tribunal of the State of New
York, 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 proceeding within the
meaning of the Constitution.

1 Mo. No. 2012-366
Eastside Exhibition Corp.,
 Appellant,
 v.
210 East 86th Street Corp.,
 Respondent.

Motion for reargument denied with one hundred
dollars costs and necessary reproduction
disbursements.

2 Mo. No. 2012-454
Kolel Damsek Eliezer, Inc.,
 Respondent,
 v.
Victor Schlesinger, &c., et al.,
 Appellants,
et al.,
 Defendants.

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.

4 Mo. No. 2012-308
In the Matter of Jovan Fludd,
 Appellant,
 v.
Honorable Penny M. Wolfgang, &c.,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2012-424
In the Matter of A. Dennis Gardner,
 Respondent,
 v.
Coxsackie-Athens Central School District
Board of Education,
 Appellant.

On the Court's own motion, appeal dismissed,
without costs, upon the ground that the order
appealed from does not finally determine the
proceeding within the meaning of the Constitution.
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 a nonfinal
order of the type provided for in CPLR 5602(a)(2).

1 Mo. No. 2012-448
Aaron Richard Golub,
 Appellant,
 v.
Tanenbaum-Harber Co., Inc.,
 Respondent.

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

3 Mo. No. 2012-413
In the Matter of Wilfredo Gonzalez,
 Appellant,
 v.
Brian Fischer, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2012-430
The People &c.,
 Respondent,
 v.
Melvin Harris,
 Appellant.

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

1 Mo. No. 2012-565
Hudson Valley Federal Credit Union,
 Appellant,
 v.
New York State Department of Taxation and
Finance, et al.,
 Respondents.

Motion by American Bankers Association et al. for
leave to file a brief amici curiae on the appeal herein
granted and the proposed brief is accepted as filed.
Judge Smith took no part.

1 Mo. No. 2012-477
J.P. Morgan Securities Inc.,
et al.,
 Appellants,
 v.
Vigilant Insurance Company,
et al.,
 Respondents.

Motion for leave to appeal granted.

1 Mo. No. 2012-431
Kathryn Jordan,
 Appellant,
 v.
Bates Advertising Holdings, Inc., &c.,
 Respondent.

Motion for reargument of motion for leave to appeal
denied.
Chief Judge Lippman took no part.

1 SSD 34
Howard Kagan,
 Appellant,
 v.
HMC-New York, Inc., et al.,
 Respondents.

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

1 Mo. No. 2012-343
Judith Klein,
 Appellant,
 v.
New York City Administration for Children's
Services,
 Respondent.

Motion for reargument &c. denied.

4 Mo. No. 2012-574
The People &c.,
 Respondent,
 v.
Louis Leddick,
 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. 2012-426
In the Matter of Angel M.,
 Appellant,
 v.
Nereida M.,
 Respondent.

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

2 Mo. No. 2012-432
Rawl Mars, &c., et al.,
 Appellants,
 v.
Patricia E. Sharp et al.,
 Respondents.

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

1 Mo. No. 2012-637
The People &c.,
 Respondent,
 v.
Miguel Mejias,
 Appellant.

Motion for assignment of counsel granted and John
R. Lewis, Esq., 36 Hemlock Drive, Sleepy Hollow,
NY 10591 assigned as counsel to the appellant on the
appeal herein.

1 Mo. No. 2012-449
Linda Merritt, &c.,
Appellant,
v.
Michael V. Blumenthal, Esq.,
Respondent,
Brown, Raysman, Millstein, Felder & Steiner
LLP, et al.,
Defendants.

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

1 Mo. No. 2012-647
The People &c.,
Respondent,
v.
William Monroe,
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.

4 Mo. No. 2012-549
The People &c.,
Respondent,
v.
William Morrison,
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.

3 SSD 29
In the Matter of Marcus Mungo,
Appellant,
v.
Norman Bezio, as Director of Special
Housing and Inmate Disciplinary Programs,
Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.

2 Mo. No. 2012-415

Dennis A. Panico,
Appellant,

v.

Advanstar Communications, Inc.,
Defendant,
Freeman Decorating Services, Inc.,
Respondent.

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

4 Mo. No. 2012-180

In the Matter of Farid Popal,
Appellant,

v.

Honorable Gerald J. Whalen, &c.,
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2012-605

The People &c.,
Respondent,

v.

Tyrone Prescott,
Appellant.

Motion for assignment of counsel granted and Thomas F. Gleason, Esq., c/o Gleason, Dunn, Walsh & O'Shea, Esqs., 40 Beaver Street, Albany, NY 12207 assigned as counsel to the appellant on the appeal herein.

4 Mo. No. 2012-450

In the Matter of the Trust Under the
Agreement of Helen W. Rivas, as Donor, the
University of Rochester, as Donee.

Bank of America, N.A., &c.,
Respondent;

University of Rochester,
Appellant.

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

4 Mo. No. 2012-447
In the Matter of Norman E. Roth, et al.,
 Appellants,
 v.
City of Syracuse, et al.,
 Respondents.
(And Other Proceedings.)

Motion for leave to appeal granted.

1 Mo. No. 2012-436
In the Matter of Markquel S., &c.,
 Appellant.

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

1 Mo. No. 2012-576
The People &c.,
 Respondent,
 v.
Hilbert Stanley,
 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 SSD 31
In the Matter of the State of New York,
 Respondent,
 v.
Richard R. (Anonymous),
 Appellant.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.

1 Mo. No. 2012-623
The People &c.,
 Respondent,
 v.
Derron Stephens,
 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.

3 Mo. No. 2012-440
In the Matter of Corey Turner,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

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

1 Mo. No. 2012-660
United States Fidelity & Guaranty Company,
et al.,
 Respondents,
 v.
American Re-Insurance Company, et al.,
 Appellants,
et al.,
 Defendants.

Motion by Reinsurance Association of America 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. 2012-451
Joel Vig,
 Appellant,
 v.
The New York Hairspray Co., L.P.,
 Respondent.

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

1 Mo. No. 2012-392
Vulcan Power Company, &c.,
 Respondent,
 v.
Stephen M. Munson, et al.,
 Defendants,
Soo Min Fay, et al.,
 Appellants.

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

1 Mo. No. 2012-423
In the Matter of Jazmine Weisman et al.,
 Appellants,
 v.
New York City Housing Authority,
 Respondent.

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

1 Mo. No. 2012-504
In the Matter of Jazmine Weisman et al.,
 Appellants,
 v.
New York City Housing Authority,
 Respondent.

Motion for a stay dismissed as academic.

2 Mo. No. 2012-443
Rovina Wilds,
 Appellant,
 v.
Mary Jane Heckstall, et al.,
 Defendants,
JP Morgan Chase Bank, &c.,
 Respondent.

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