

June 28, 2012

CASES

2 No. 119
Amine Baba-Ali,
 Appellant-Respondent,
 v.
State of New York,
 Respondent-Appellant.

Order modified, without costs, by denying claimant's motion for summary judgment on the issue of liability and remitting to the Court of Claims for further proceedings in accordance with the opinion herein and, as so modified, affirmed.
Opinion by Chief Judge Lippman.
Judges Ciparick, Graffeo, Smith, Pigott and Jones concur.
Judge Read took no part.

1 No. 132
Georgia Malone & Company, Inc.,
 Appellant,
 v.
Ralph Rieder, et al.,
 Defendants,
Rosewood Realty Group, Inc., et al.,
 Respondents.

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

1 No. 211 SSM 21
Illinois Union Insurance Company,
 Respondent,
 v.
Assurance Company of America,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order modified, without costs, by granting judgment declaring in accordance with the memorandum herein and, as so modified, affirmed and the certified question answered in the negative, in a memorandum.
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

1 No. 130
The People &c.,
 Appellant-Respondent,
 v.
Louis Riley,
 Respondent-Appellant.

On defendant's appeal, order, insofar as appealed from, affirmed, and People's appeal dismissed upon the ground that the modification by the Appellate Division was not "on the law alone or upon the law and such facts which, but for the determination of law, would not have led to . . . modification" (CPL 450.90[2][a]), in a memorandum.
Chief Judge Lippman and Judges Ciparick, Graffeo, Read and Jones concur.
Judge Pigott dissents in part in an opinion in which Judge Smith concurs.

1 No. 120
Lillian Roberts, &c., et al.,
 Appellants,
 v.
David A. Paterson, &c., et al.,
 Respondents.

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

1 No. 150 SSM 25
The People &c.,
 Respondent,
 v.
Vincent Rodriguez,
 Appellant.

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

1 No. 123
The People &c.,
 Appellant,
 v.
Jessie Velez,
 Respondent.

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

MOTIONS

2 SSD 37
Jay Abrams, et al.,
 Appellants,
 v.
Suzanne Berelson,
 Respondent.

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.

1 Mo. No. 2012-520
In the Matter of Marsiste Adolphe,
 Appellant,
 v.
New York City Board of Education,
 Respondent.

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

1 Mo. No. 2012-519
Akabas & Cohen,
 Appellant,
 v.
Fox Rothschild LLP,
 Respondent.

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

1 Mo. No. 2012-572
Arnav Industries, Inc.,
 Respondent,
 v.
Jody Pitari,
 Appellant.

Motion for leave to appeal dismissed as untimely. The prior motion for leave to appeal made to the Appellate Division was untimely (see Karger, Powers of the New York Court of Appeals § 12:3, at 436-437 [3d ed rev]).

2 Mo. No. 2012-546
Joseph Baptiste, &c.,
Appellant,
v.
Eastlyn Harding-Marin, &c.,
et al.,
Respondents,
et al.,
Defendants.

Motion for leave to appeal denied.

4 Mo. No. 2012-512
Jessie J. Barnes,
Appellant,
v.
The State of New York,
Respondent.

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

2 Mo. No. 2012-583
Victor Y. Batshever,
Appellant,
v.
Daniel Black, et al.,
Respondents.

Motion for reargument of motion for leave to appeal
denied.

1 Mo. No. 2012-514
In the Matter of Best Payphones, Inc.,
Appellant,
v.
Environmental Control Board of the City of
New York, et al.,
Respondents.

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

1 Mo. No. 2012-557
Beth Abraham Health Services,
Respondent,
v.
Mildred Eccleston-Johnson,
Appellant.

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

1 Mo. No. 2012-513
The Big Four LLC,
Appellant,
v.
The Bond Street Lofts Condominium,
Respondent.

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

1 Mo. No. 2012-631
In the Matter of Charla R. Bikman, &c.

Departmental Disciplinary Committee for the
First Judicial Department,
Respondent,

Charla R. Bikman,
Appellant.

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.

2 Mo. No. 2012-559
In the Matter of Michael Buxenbaum, Jr.,
Respondent,
v.
Rachel Fulmer,
Appellant.

Motion for reargument of motion for leave to appeal denied.

1 Mo. No. 2012-604
Larry Carr,
Appellant,
v.
Pamela D. Hayes, &c., et al.,
Respondents,
et al.,
Defendant.

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

4 Mo. No. 2012-563
The People &c.,
 Respondent,
 v.
Jose L. Carrasquillo,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2012-555
Andre P. Chappotin,
 Appellant,
 v.
City of New York,
 Defendant,
Consolidated Edison Companies,
 Respondent.

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

3 Mo. No. 2012-550
The People &c.,
 Respondent,
 v.
Raymond Christie,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2012-545
In the Matter of Lydia M.G. (Anonymous),
 Respondent,
 v.
Administration for Children's Services,
 Respondent,
Miguel P.,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2012-544
In the Matter of Alyssa G. (Anonymous).

Administration for Children's Services,
Respondent;
Miguel P. (Anonymous),
Appellant.
(And Another Proceeding.)

Motion for leave to appeal denied.

2 Mo. No. 2012-598
Hovsep Gregorian,
Respondent,
v.
New York Life Insurance Company,
Appellant.

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. 2012-553
In the Matter of Sinclair Haberman et al.,
Respondents,
v.
Zoning Board of Appeals of City of Long
Beach, et al.,
Appellants,
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 action/proceeding within the meaning of the Constitution and is not an order of the type provided for in CPLR 5602(a)(2).

3 Mo. No. 2012-534
In the Matter of Marvin H. Handler, M.D.,
P.C.,
 Appellant,
 v.
Thomas P. DiNapoli, &c.,
 Respondent,
et al.,
 Respondent.

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 an order of the type provided for in CPLR 5602(a)(2).

1 Mo. No. 2012-566
In the Matter of Jacob H.,
et al., &c.

Commissioner of Social Services of the City
of New York,
 Respondent,
Logann K.,
 Appellant.

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. Motion for poor person relief dismissed as academic.

4 Mo. No. 2012-518
In the Matter of Daniel B. Harder, Jr.,
 Appellant,
 v.
Nicole B. Phetteplace,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2012-528
Diedrich Holtkamp, et al.,
 Appellants,
 v.
Parklex Associates, et al.,
 Defendants,
Flemming Zulack Williamson Zauderer, LLP,
et al.,
Proposed Defendants-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. 2012-551
J. D'Addario & Company, Inc.,
 Appellant,
 v.
Embassy Industries, Inc.,
 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.

1 Mo. No. 2012-570
Ana Lawson,
 Appellant,
 v.
City of New York, et al.,
 Respondents.

Motion for leave to appeal from the Supreme Court judgment entered upon the Appellate Division order dismissed upon the ground that the judgment is not the final appealable paper from which leave to appeal may be sought (see CPLR 5611).

2 Mo. No. 2012-516
The People &c.,
 Respondent,
 v.
Michael Linton,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2012-538
In the Matter of Alfredo Lugo,
 Appellant,
 v.
Andrea W. Evans, &c.,
 Respondent.

Motion for reargument of motion for leave to appeal denied.

4 Mo. No. 2012-489
M&T Real Estate Trust, &c.,
 Appellant,
 v.
James J. Doyle, II et al.,
 Respondents.

Motion for leave to appeal granted.

3 Mo. No. 2012-521
In the Matter of Robert E. MacLaren,
 Appellant,
 v.
City of Norwich Housing Authority 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 proceeding within the meaning of the Constitution.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2012-529
Muriel McGuire,
 Appellant,
 v.
Ruth McGuire,
 Respondent,
et al.,
 Defendants.

Motion for leave to appeal denied.

2 Mo. No. 2012-558
The People &c.,
 Respondent,
 v.
Adam Melzer,
 Appellant.

Motion for reargument of motion for leave to appeal denied.

1 SSD 38
In the Matter of Murphy & O'Connell,
 Appellant,
 v.
Tax Appeals Tribunal, et al.,
 Respondents.

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

2 Mo. No. 2012-587
Kyle Navarra, &c., et al.,
 Appellants,
 v.
Four Winds Hospital - Westchester,
 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.

3 Mo. No. 2012-526
In the Matter of Fidencio Pelaez,
 Respondent,
 v.
Alan Silverstone et al.,
 Appellants,
State Insurance Fund et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

Motion, insofar as it seeks leave to appeal purportedly on behalf of Silverbrook Farm, Inc., dismissed upon the ground that Silverbrook Farm, Inc. must appear by an attorney (see CPLR 321[a]); motion, insofar as Alan Silverstone and Janice Silverstone seek leave to appeal from that part of the Appellate Division order as affirmed the decision of the Workers' Compensation Board denying reconsideration or full Board review, dismissed upon the ground that such portion of the Appellate Division order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal by Alan Silverstone and Janice Silverstone otherwise denied.

 Mo. No. 2012-540
In the Matter of Michael F. Ramsey,
 Appellant,
 v.
Brian Fischer, &c., et al.,
 Respondents.

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

2 Mo. No. 2012-547
In the Matter of County of Rockland,
 Appellant,
 v.
Civil Service Employees Association, Inc.,
&c.,
 Respondent.

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

1 Mo. No. 2012-533
The People &c.,
 Respondent,
 v.
Rafael Rodriguez,
 Appellant.

Motion for reargument denied.

2 Mo. No. 2012-620
In the Matter of Juan Y. Sheng,
 Appellant,
 v.
State of New York Division of Human
Rights, 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 proceeding within the meaning of the Constitution.

2 Mo. No. 2012-523
In the Matter of Steven L. Solovay,
 Appellant,
 v.
Sandra Solovay,
 Respondent.
(And Another Proceeding.)

Motion for leave to appeal denied.

3 Mo. No. 2012-537
In the Matter of South Island Orthopaedic
Group, P.C.,
 Appellant,
 v.
Thomas P. DiNapoli, &c., et al.,
 Respondents.

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 an order of the type provided for in CPLR 5602(a)(2).

1 Mo. No. 2012-554
In the Matter of Julia Elizabeth Taschereau,
Deceased.

Motion for leave to appeal denied.

Elizabeth Combier,
 Appellant,
 v.
Julia Danger,
 Respondent.

4 Mo. No. 2012-542
In the Matter of Nyasia W.

Monroe County Department of Human
Services,
 Respondent;
Christine W.,
 Appellant.
(And Another Proceeding.)

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

2 Mo. No. 2012-517
The People &c.,
 Respondent,
v.
Richard C. Wiedeman,
 Appellant.

Motion for reargument of motion for leave to appeal
denied.

1 Mo. No. 2012-594
Jill Williams, et al.,
 Respondents,
v.
State of New York,
 Appellant.

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