

May 03, 2012

CASES

1 No. 80
The People &c.,
 Respondent,
 v.
Hans Alexander,
 Appellant.

Order affirmed.
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.

2 No. 66
Baygold Associates, Inc.,
 Appellant,
 v.
Congregation Yetev Lev of Monsey, Inc.,
 Respondent.
(And Another Action.)

Order affirmed, with costs.
Opinion by Judge Pigott.
Chief Judge Lippman and Judges Ciparick and Read
concur.
Judge Smith dissents in an opinion in which Judge
Graffeo concurs.
Judge Jones took no part.

4 No. 145 SSM 18
Frederick Bready et al.,
 Appellants,
 v.
CSX Transportation, Inc.,
 Respondent,
et al.,
 Defendant.

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

2 No. 74
The People &c.,
 Respondent,
 v.
Monroe B. Bussey,
 Appellant.

Order modified by reducing defendant's conviction of
depraved indifference murder in the second degree to
manslaughter in the second degree and remitting to
County Court, Orange County, for resentencing and,
as so modified, affirmed.
Opinion by Judge Jones.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Smith and Pigott concur.

No. 135
Daniel Marks Cohen, et al.,
Appellants,
v.
Governor Andrew M. Cuomo, et al.,
Respondents.

Judgment affirmed, without costs.
Opinion Per Curiam.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Smith, Pigott and Jones concur.

4 No. 146 SSM 19
Brandon Harris et al.,
Appellants,
v.
CSX Transportation, Inc.,
Respondent,
et al.,
Defendant.

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

1 No. 67
The People &c.,
Respondent,
v.
Scott Liden,
Appellant.

Order reversed, without costs, and determination that
defendant is required to register as a sex offender
annulled.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Pigott and Jones concur.

MOTIONS

4 Mo. No. 2012-303
Altshuler Shaham Provident Funds, Ltd.,
 Appellant,
 v.
GML Tower, LLC, et al.,
 Defendants,
The Pike Company, Inc., et al.,
 Respondents.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2012-283
Bankers Trust Company of California, NA.,
&c.,
 Respondent,
 v.
Mary Lee Ward,
 Appellant,
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.
Motion for poor person relief dismissed as academic.

3 Mo. No. 2012-286
John B. Bell,
Appellant,
v.
New York State Higher Education Services
Corporation,
Respondent.

On the Court's own motion, appeal, insofar as taken from that portion of the Appellate Division order that dismissed the appeal from the September 2009 Supreme Court order, dismissed, without costs, upon the ground that no substantial constitutional question is directly involved; appeal otherwise dismissed, without costs, upon the ground that the remaining portion of the order appealed from does not finally determine the action within the meaning of the Constitution.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that dismissed the appeal from the September 2009 Supreme Court order, denied; motion for leave to appeal otherwise dismissed upon the ground that the remaining portion of the order sought to be appealed from does not finally determine the action within the meaning of the Constitution.

3 Mo. No. 2012-282
In the Matter of Ramiz Berisha,
Appellant,
Commissioner of Labor,
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.

2 Mo. No. 2012-291
Sandra Browne,
Appellant,
v.
New York City Transit Authority,
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2012-281
In the Matter of David Burr,
 Appellant,
 v.
Timothy B. Howard, &c.,
 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.

2 Mo. No. 2012-260
Luis Cabrera,
 Appellant,
 v.
Revere Condominium, et al.,
 Respondents.

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

3 Mo. No. 2012-287
In the Matter of Moshe Cinque Canty, &c.,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2012-277
Larry Carr,
 Appellant,
 v.
Pamela D. Hayes, &c., et al.,
 Respondents,
et al.,
 Defendant.

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

2 Mo. No. 2012-239
In the Matter of City of Yonkers,
 Respondent,
 v.
Yonkers Fire Fighters, Local 628, IAFF,
AFL-CIO,
 Appellant.

Motion for leave to appeal granted.

2 Mo. No. 2012-205
Dock A. Cope,
Appellant,
v.
Aatif Barakaat, et al.,
Defendants,
Olabanji Awosika, et al.,
Respondents.

Motion, insofar as it seeks leave to appeal from that part of the Appellate Division order that affirmed the May 2010 Supreme Court order, denied; motion for leave to appeal otherwise dismissed upon the ground that the remaining portion of the Appellate Division order does not finally determine the action within the meaning of the Constitution.

4 Mo. No. 2012-298
Cornell Davis, Jr.,
Appellant,
v.
State of New York,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2012-209
In the Matter of Gregory Demeter,
Respondent,
v.
Gladys Alayon,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2012-247
Ana DiStefano,
Plaintiff,
v.
Kmart Corporation International,
Appellant,
770 Broadway Owner, LLC,
Defendant,
Thyssenkrupp Elevator Corporation,
Respondent.

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

4 Mo. No. 2012-259
Jane Doe,
Respondent,
v.
North Tonawanda Central School District,
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.

3 Mo. No. 2012-248
Ernie Otto Corporation,
Appellant,
v.
Inland Southeast Thompson Monticello, LLC,
Respondent.

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

4 Mo. No. 2012-243
In the Matter of Lashawnda G.

Monroe County Department of Human
Services,
Respondent;
Shawn G.,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2012-215
In the Matter of Shawn Green,
Appellant,
v.
Mark L. Bradt, &c.,
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2012-273
The People &c.,
Respondent,
v.
Mario J. Hodges,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2012-323
William Hosmer et al.,
 Plaintiffs,
 v.
Kubricky Construction Corporation,
 Respondent,
Town of Fort Ann,
 Appellant,
et al.,
 Defendants.
(And 13 Other Related Actions.)

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the actions within the meaning of the Constitution.

2 Mo. No. 2012-295
Eric Martin,
 Appellant,
 v.
Southern Container Corp., et al.,
 Respondents.

Motion, insofar as it seeks leave to appeal from that part of the Appellate Division order that affirmed the denial of appellant's motion to amend the complaint, dismissed upon the ground that such portion of the order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

2 Mo. No. 2012-266
Shawn H. Martinez, &c.,
 Appellant,
 v.
City of New York, et al.,
 Respondents,
et al.,
 Defendant.

Motion for leave to appeal denied.

2 Mo. No. 2012-290
In the Matter of Richard Shaw,
 Respondent,
 v.
Jaye Miller,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2012-313
The People &c. ex rel. Scott Morse,
Appellant,
v.
James L. Berbary, &c.,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2012-279
Lijo Panghat, M.D.,
Appellant,
v.
New York State Division of Human Rights,
Respondent.

Motion for leave to appeal from the Appellate
Division order dismissing the appeal from the July
2010 Supreme Court order, dismissed upon the
ground that such order does not finally determine the
action within the meaning of the Constitution.
Chief Judge Lippman took no part.

1 Mo. No. 2012-418
Lijo Panghat, M.D.,
Appellant,
v.
New York State Division of Human Rights,
Respondent.

Motion for leave to appeal from the Appellate
Division order that affirmed the November 2010
Court of Claims order denied with one hundred
dollars costs and necessary reproduction
disbursements.
Chief Judge Lippman took no part.

4 Mo. No. 2012-274
The People &c.,
Respondent,
v.
David Quinones,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2012-226
In the Matter of Adelyn Ramirez,
Appellant,
v.
Eric L. Velazquez,
Respondent.

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

1 Mo. No. 2012-225
In the Matter of Robert J. Rauschmeier,
Respondent,
v.
Village of Johnson City et al.,
Appellants.

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

2 Mo. No. 2012-270
Joel David Sharrow,
Appellant,
v.
Loralee A. Sheridan, et al.,
Respondents.

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

2 Mo. No. 2012-294
In the Matter of Cheskil Shimon,
Respondent,
v.
Herman Silberman, &c., et al.,
Appellants.

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

1 Mo. No. 2012-301
Everett Stembridge,
Appellant,
v.
New York City Department of Education,
Respondent.

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

4 Mo. No. 2012-251
In the Matter of Tin Tin,
Respondent,
v.
Thar Kyi,
Appellant.

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

2 Mo. No. 2012-176
Uri Tornheim,
Appellant,
v.
Blue & White Food Products Corp.,
Respondent.

Motion for leave to appeal from the Appellate Division order that modified the Supreme Court judgment denied with one hundred dollars costs and necessary reproduction disbursements.

2 Mo. No. 2012-194
Uri Tornheim,
Appellant,
v.
Blue & White Food Products Corp.,
Respondent.

Motion for leave to appeal from the Appellate Division order affirming the Supreme Court order that denied appellant's motion to vacate, dismissed upon the ground that such order does not finally determine the action within the meaning of the Constitution.

2 Mo. No. 2012-265
In the Matter of People of State of New York,
Respondent,
v.
Mircea Veleanu, &c.,
Appellant.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Motion for a stay dismissed as academic.

1 Mo. No. 2012-309
The People &c.,
Appellant,
v.
John Walden,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2012-438
The People &c.,
Respondent,
v.
Bill Williams,
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. 2012-284
In the Matter of Wolfson Casing Corporation,
 Respondent,
 v.
Galen D. Kirkland, &c.,
 Appellant,
et al.,
 Respondent.

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

4 Mo. No. 2012-312
In the Matter of Carrie Jo Yamonaco,
 Respondent,
 v.
Dennis Fey,
 Appellant.

Motion for leave to appeal denied.