

May 31, 2012

CASES

1 No. 114
The People &c.,
 Respondent,
 v.
Quinton Dais,
 Appellant.

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

4 No. 83
Thomas E. Dombrowski,
 Respondent,
 v.
Raymond W. Bulson,
 Appellant.

Order reversed, with costs, order of Supreme Court,
Allegany County, reinstated, and certified question
answered in the negative.
Opinion by Chief Judge Lippman.
Judges Ciparick, Graffeo, Read, Smith, Pigott and
Jones concur.

1 No. 89
IDX Capital, LLC, James Cawley and Brady
Halper,
 Appellants,
et al.,
 Plaintiffs,
 v.
Phoenix Partners Group LLC, et al.,
 Respondents,
et al.,
 Defendants.

Order, insofar as appealed from, affirmed, with costs,
in a memorandum.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Smith, Pigott and Jones concur.

3 No. 92
The People &c.,
 Respondent,
 v.
Leo Leonard,
 Appellant.

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

1 No. 86
The People &c.,
 Respondent,
 v.
Zahira Matos,
 Appellant.

Order modified by dismissing the count of the indictment charging depraved indifference murder of a child and remitting to Supreme Court, New York County, for resentencing and, as so modified, affirmed, without prejudice to an application by the People to re-present any appropriate charges to another grand jury.

Opinion by Judge Ciparick.

Chief Judge Lippman and Judges Graffeo, Smith and Jones concur.

Judge Pigott dissents and votes to affirm in an opinion in which Judge Read concurs.

 No. 148
In the Matter of the Honorable Diane L.
Schilling, a Justice of the East Greenbush
Town Court, Rensselaer County.

On the Court's own motion, it is determined that Honorable Diane L. Schilling is suspended, with pay, effective immediately, from the office of Justice of the East Greenbush Town Court, Rensselaer County, pending disposition of her request for review of a determination by the State Commission on Judicial Conduct.

Judges Ciparick, Graffeo, Smith, Pigott and Jones concur.

Chief Judge Lippman and Judge Read took no part.

2 No. 115
The People &c.,
 Respondent,
 v.
Donald Stanley,
 Appellant.

Order reversed and case remitted to Supreme Court, Queens County, for further proceedings in accordance with the opinion herein.

Opinion by Judge Pigott.

Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith and Jones concur.

2 No. 96
Mark Weiner,
 Appellant,
 v.
City of New York, et al.,
 Respondents.

Order affirmed, with costs, and certified question not answered as unnecessary, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

1 No. 111
The People &c.,
 Respondent,
 v.
Malik Yusuf, Also Known as
Yusuf M. Ashford,
 Appellant.

Order modified by remitting to Supreme Court, New York County, for further proceedings in accordance with the opinion herein and, as so modified, affirmed. Opinion by Judge Read. Chief Judge Lippman and Judges Ciparick, Graffeo, Smith, Pigott and Jones concur.

MOTIONS

Mo. No. 2012-527
The People &c.,
Respondent,
v.
Keith A. Adams,
Appellant.

Motion for assignment of counsel granted and Timothy P. Donaher, Esq., Monroe County Public Defender, 10 N. Fitzhugh Street, Rochester, NY 14614 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2012-525
The People &c.,
Respondent,
v.
Santiago Alvarez,
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.

4 Mo. No. 2012-475
The People &c.,
Respondent,
v.
Jay J. Barboni,
Appellant.

Motion for assignment of counsel granted and Mary P. Davison, Esq., c/o Davison Law Office, 61 North Main Street, PO Box 652, Canandaigua, NY 14424 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2012-445
The People &c.,
Respondent,
v.
Lawrence Blankymsee,
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. 2012-446
The People &c.,
Respondent,
v.
Christopher Brinson,
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.

Mo. No. 2012-476
Daniel Marks Cohen, et al.,
Appellants,
v.
Governor Andrew M. Cuomo, et al.,
Respondents.

Motion by H. William Van Allen for leave to appear
amicus curiae on the appeal herein dismissed as
academic.

1 Mo. No. 2012-491
The People &c.,
Respondent,
v.
Austin Cornelius,
Appellant.

Motion for assignment of counsel granted and
Richard M. Greenberg, Esq., Office of the Appellate
Defender, 11 Park Place, Suite 1601, New York, NY
10007 assigned as counsel to the appellant on the
appeal herein.

3 Mo. No. 2012-510
In the Matter of Michael A. Cunningham,
Appellant,
v.
New York State Department of Labor,
Respondent.

Motion by New York State United Teachers 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.

3 Mo. No. 2012-293
In the Matter of Destiny EE., &c.

Ulster County Department of Social Services,
Respondent;
Karen FF.,
Appellant.
(And Other Proceedings.)

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

3 Mo. No. 2012-68
The People &c. ex rel. Santo Gonzalez,
Appellant,
v.
New York State Department of Correctional
Services, et al.,
Respondents.

Motion for reargument of motion for leave to appeal
denied.

4 Mo. No. 2011-1366
John Gronski et al.,
Appellants,
v.
County of Monroe,
Respondent.

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

1 Mo. No. 2012-508
The People &c.,
Respondent,
v.
Kirk Hanley,
Appellant.

Motion for assignment of counsel granted and
Richard M. Greenberg, Esq., Office of the Appellate
Defender, 11 Park Place, Suite 1601, New York, NY
10007 assigned as counsel to the appellant on the
appeal herein.

2 Mo. No. 2012-552
The People &c.,
Appellant,
v.
James A. Harris, Jr.,
Respondent.

Motion for assignment of counsel granted and
Warren S. Hecht, Esq., 118-21 Queens Boulevard,
Ste. 518, Forest Hills, NY 11375 assigned as counsel
to the respondent on the appeal herein.

2 Mo. No. 2012-253
JP Morgan Chase Bank, N.A., &c.,
Respondent,
v.
Jon Edelson, et al.,
Defendants;
C-Con Corp.,
Proposed Intervenor-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.

1 Mo. No. 2012-285
Evelyn Konrad,
 Appellant,
 v.
William Brown,
 Respondent.

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

4 Mo. No. 2012-515
The People &c.,
 Respondent,
 v.
Demetrius McGee,
 Appellant.

Motion for assignment of counsel granted and David C. Schopp, Esq., The Legal Aid Bureau of Buffalo, Inc., 237 Main Street, Suite 1602, Buffalo, NY 14203 assigned as counsel to the appellant on the appeal herein.

3 Mo. No. 2012-471
Richard M. Metz, as Personal Representative
of the Estate of Mary Helen Metz, Deceased,
et al.,
 Respondents,
 v.
State of New York,
 Appellant.
(And Six Other Related Claims.)

Motion by City of New York 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.

4 Mo. No. 2012-325
The People &c.,
 Respondent,
 v.
Pearson E. Miles, Jr.,
 Appellant.

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

2 Mo. No. 2012-322
In the Matter of New York City Transit
Authority et al.,
 Appellants,
 v.
Transport Workers Union of America, Local
100,
 Respondent.

Motion for leave to appeal denied.
Judge Jones took no part.

2 Mo. No. 2012-385
In the Matter of New York City Transit
Authority et al.,
 Respondents,
 v.
Transport Workers Union of America, Local
100,
 Appellant.

Motion for leave to appeal denied.
Judge Jones took no part.

1 Mo. No. 2012-324
Randall's Island Aquatic Leisure, LLC, et al.,
 Appellants,
 v.
The City of New York, et al.,
 Respondents.

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

2 Mo. No. 2012-297
Regional Economic Community Action
Program, Inc.,
 Appellant,
 v.
Enlarged City School District of Middletown,
 Respondent.

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

2 Mo. No. 2012-539
The People &c.,
 Respondent,
 v.
Paul Thompson,
 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.

3 Mo. No. 2012-256
In the Matter of Michael V., &c.

Ulster County Attorney's Office,
 Respondent;
Michael V.,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2012-331
VBH Luxury, Incorporated,
 Plaintiff,
 v.
940 Madison Associates LLC,
 Third-Party Respondent,
Excelsior Insurance Company,
 Third-Party Appellant,
et al.,
 Third-Party Defendant.

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

1 Mo. No. 2012-473
The People &c.,
 Respondent,
 v.
Timothy Williams,
 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. 2012-564
Jasmine Zheng et al.,
 Appellants,
 v.
The City of New York, et al.,
 Respondents.

Motion by Sanctuary for Families et al. for leave to
file a brief amici 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.