

November 27, 2012

CASES

No. 238

Jeana Barenboim et al., on behalf of
themselves and all others similarly situated,

Appellants,

v.

Starbucks Corporation,
Respondent.

Certification of questions by the United States Court
of Appeals for the Second Circuit, pursuant to section
500.27 of this Court's Rules of Practice, accepted and
the issues presented are to be considered after
briefing and argument.

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

Eugene Winans, et al., on behalf of
themselves and all others similarly situated,

Appellants,

v.

Starbucks Corporation,
Respondent.

Order affirmed, in a memorandum.

Chief Judge Lippman and Judges Ciparick, Graffeo,
Read and Pigott concur.

Judge Smith dissents and votes to reverse in an
opinion.

3 No. 195

The People &c.,

Appellant,

v.

John M. Gavazzi,
Respondent.

2 No. 233 SSM 30
The People &c.,
 Appellant,
 v.
James A. Harris, Jr.,
 Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed. There is support in the record for the Appellate Division's determination that defendant unequivocally invoked his right to counsel while in custody, and that mixed question of law and fact is beyond our further review. We agree with the Appellate Division that the hearing court's error in failing to suppress defendant's statements was not harmless beyond a reasonable doubt and that defendant is entitled to a new trial.
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith and Pigott concur.

2 No. 189
In the Matter of Richard Lazzari,
 Respondent,
 v.
Town of Eastchester, et al.,
 Appellants,
Paula Redd Zeman, &c., et al.,
 Respondents.

Order affirmed, with costs.
Opinion by Chief Judge Lippman.
Judges Ciparick, Graffeo, Read and Smith concur.
Judge Pigott dissents in an opinion.

1 No. 236 SSM 40
Bernard Lewis,
 Respondent,
 v.
Joseph Caputo, &c.,
 Appellant,
The City of New York, et al.,
 Defendants.

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

1 No. 193
Steve Pappas, et al.,
 Respondents,
 v.
Steve Tzolis,
 Appellant,
Vrahos LLC,
 Defendant.

Order, insofar as appealed from, reversed, with costs,
plaintiffs' complaint dismissed in its entirety, and
certified question answered in the negative.
Opinion by Judge Pigott.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read and Smith concur.

3 No. 198
In the Matter of P. David Soares, as District
Attorney of Albany County,
 Respondent,
 v.
Stephen W. Herrick, as Judge of the County
Court of Albany County,
 Respondent,
Naomi Loomis, et al.,
 Appellants.

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

3 No. 209
The People &c.,
 Respondent,
 v.
Tayden Townsley,
 Appellant.

Order affirmed.
Opinion by Judge Smith.
Judges Graffeo, Read and Pigott concur.
Judge Ciparick dissents and votes to reverse in an
opinion in which Chief Judge Lippman concurs.

MOTIONS

3 Mo. No. 2012-994
In the Matter of the Association for a Better
Long Island, Inc., et al.,
 Petitioners,
Town of Riverhead et al.,
 Appellants,
 v.
New York State Department of
Environmental Conservation,
et al.,
 Respondents.

Motion for leave to appeal granted.

 Mo. No. 2012-968
In the Matter of Maria Avramis,
 Appellant,
 v.
Robert Sarachan, &c., et al.,
 Respondents.
(And Another Proceeding.)

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

3 Mo. No. 2012-965
In the Matter of Jason Brisman,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

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

3 Mo. No. 2012-976
Roger A. Campfield,
 Respondent,
 v.
Sharlene M. Campfield,
 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. 2012-985
Jennifer Cangro,
 Appellant,
 v.
Park South Towers Associates
et al.,
 Respondents.

On the Court's own motion, appeal dismissed,
without costs, upon the ground that the orders
appealed from do not finally determine the action
within the meaning of the Constitution.
Motion for leave to appeal dismissed upon the
ground that the orders sought to be appealed from do
not finally determine the action within the meaning
of the Constitution.

2 Mo. No. 2012-990
In the Matter of Eugene L. Daneri,
 Respondent,
 v.
Zoning Board of Appeals of the Town of
Southold,
 Appellant,
Thornton Smith,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2012-971
In the Matter of Tuhin S. Dutta,
 Appellant,
 v.
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.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2012-970
In the Matter of Mateo F. (Anonymous),
 Appellant.

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

2 Mo. No. 2012-991

Richard George,
Appellant,

v.

Yoma Development Group, Inc.,
et al.,

Defendants,
Jennifer E. Lozana Luna, 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. 2012-956

In the Matter of Georgiana H. Jungels,
Appellant,

v.

SUNY Buffalo,
Respondent.

Workers' Compensation Board,
Respondent.

Motion, insofar as it seeks leave to appeal from that part of the April 2012 Appellate Division order as dismissed the appeal from the October 2009 Workers' Compensation Board decision, denied; motion for leave to appeal otherwise dismissed upon the ground that the remaining portions of the orders sought to be appealed from do not finally determine the proceeding within the meaning of the Constitution.

3 Mo. No. 2012-984

In the Matter of Edward Koehl,
Appellant,

v.

Brian S. Fischer, as Commissioner of
Corrections and Community Supervision,
Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that no appeal lies as of right from the unanimous order of the Appellate Division absent the direct involvement of a substantial constitutional question (see CPLR 5601). Motion for poor person relief dismissed as academic.

2 Mo. No. 2012-974

The People &c.,
Respondent,

v.

Tyrone Mingo,
Appellant.

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

1 Mo. No. 2012-992
In the Matter of Terri Patterson,
 Appellant,
 v.
City of New York, et al.,
 Respondents.

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

4 SSD 63
Frederick J. Platek and Mary E. Platek,
 Respondents,
 v.
Town of Hamburg, et al.,
 Defendants,
Allstate Indemnity Company,
 Appellant.

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. 2012-964
In the Matter of Randy Rodriguez,
 Appellant,
 v.
Hon. Charles H. Solomon, et al.,
 Respondents.

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

1 Mo. No. 2012-995
Jonathan K. Smith, &c.,
 Appellant,
 v.
John A. Catsimatidis,
 Respondent.

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

2 Mo. No. 2012-969
Dolores Stewart,
 Respondent,
 v.
Sandy Marte et al.,
 Appellants.

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.

Mo. No. 2012-963
In the Matter of Ricardo Topsy,
Appellant,
v.
D. Venettozzi, &c.,
Respondent.

Motion for leave to appeal denied.

1 SSD 61
Jose Torres,
Appellant,
v.
Gamma Taxi Corp., 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 action within the
meaning of the Constitution.

2 Mo. No. 2012-989
Tribeca Lending Corp.,
Respondent,
v.
Linda Crawford,
Appellant,
et al.,
Defendants.

Motion for leave to appeal dismissed upon the
ground that it does not lie.

2 Mo. No. 2012-982
Kevin R. Vialva, et al.,
Appellants,
v.
40 West 25th Street Associates, L.P., et al.,
Respondents,
et al.,
Defendant.
(And a Third-Party Action.)

Motion for leave to appeal denied.