

October 30, 2012

CASES

2 No. 168

The People &c.,
Respondent,

v.

Luis Alvarez,
Appellant.

Order reversed and a new trial ordered.

Opinion by Chief Judge Lippman.

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

1 No. 152

Barbara Coleman, &c.,
Respondent,

v.

Richard F. Daines, M.D., &c., et al.,
Appellants.

Order affirmed, with costs, and certified question
answered in the affirmative, in a memorandum.

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

Judge Pigott dissents and votes to reverse in an
opinion in which Judges Read and Smith concur.

4 No. 164

Robin Custodi, et al.
Respondents,

v.

Town of Amherst, et al.,
Defendants,
Peter Muffoletto, et al.,
Appellants.

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.

4 No. 151

In the Matter of the State of New York,
Respondent,

v.

Daniel F. (Anonymous),
Appellant.

Order reversed, without costs, and order of Supreme
Court, Onondaga County, reinstated, in a
memorandum.

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

2 No. 169
The People &c.,
 Respondent,
 v.
William George,
 Appellant.

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

2 No. 165
The People &c.,
 Respondent,
 v.
Carlos Herring,
 Appellant.

Order affirmed, in a memorandum.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Smith, Pigott and Jones concur.

1 No. 155
In the Matter of The New York County
Lawyers' Association, et al.,
 Appellants,
The New York Criminal Bar Association,
Inc., et al.,
 Intervenors-Appellants,
 v.
Michael R. Bloomberg, &c., et al.,
 Respondents,
The Legal Aid Society of New York,
 Intervenor-Respondent.

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

4 No. 172
In the Matter of the State of New York,
 Respondent,
 v.
Shannon S.,
 Appellant.

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

4 No. 153
The People &c.,
Respondent,
v.
Michael J. Solomon,
Appellant.

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

MOTIONS

3 Mo. No. 2012-935
In the Matter of Carlos Abreu,
 Appellant,
 v.
Brian Fischer, &c., et al.,
 Respondents.

On the Court's own motion, appeal dismissed,
without costs, upon the ground that no substantial
constitutional question is directly involved.
Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2012-913
Brenda Andrews et al.,
 Appellants,
 v.
New York City Housing Authority,
 Respondent.

Motion for leave to appeal from the July 2012
Supreme Court judgment dismissed upon the ground
that the judgment is not the final appealable paper
from which leave to appeal may be sought. The
October 2009 Appellate Division order dismissing
the complaint was the final appealable paper (see
CPLR 5611).

1 Mo. No. 2012-846
Carroll Bing,
 Appellant,
 v.
296 Third Avenue Group, L.P.,
et al.,
 Respondents,
et al.,
 Defendant.

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

3 Mo. No. 2012-903
In the Matter of Penny A. Bonneau,
 Respondent,
 v.
Daniel R. Bonneau, Jr.,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2012-777
In the Matter of Centerpointe Corporate Park
Partnership 350,
 Respondent,
 v.
Mony, &c., et al.,
 Respondents.
Broker Alliance Group, Inc.,
 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.

1 Mo. No. 2012-934
In the Matter of Jean Chin,
 Appellant,
 v.
New York City Board of Standards and
Appeals, et al.,
 Respondents.

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

1 Mo. No. 2012-973
Kristian Clase, &c.,
 Appellant,
 v.
New York City Health and Hospitals
Corporation (North Central Bronx Hospital),
et al.,
 Respondents.

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

2 Mo. No. 2012-980
In the Matter of Joe Cordero, Jr.,
 Appellant,
 v.
Judith Ann DeLeon,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2012-967
In the Matter of County of Albany, et al.,
Appellants,
v.
Hudson River-Black River Regulating
District et al.,
Respondents.

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

1 Mo. No. 2012-896
John R. Denza, et al.,
Appellants,
v.
Independence Plaza Associates, LLC et al.,
Respondents.

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

1 Mo. No. 2012-908
John R. Denza, et al.,
Appellants,
v.
Independence Plaza Associates, LLC et al.,
Respondents.

Motion by Fifth Avenue Committee, et al., insofar as it seeks leave to appear amici curiae on the motion for leave to appeal herein, granted and the proposed brief is accepted as filed; motion, insofar as it seeks leave to appear amici curiae on the appeal herein, dismissed as academic.

1 Mo. No. 2012-920
John R. Denza, et al.,
Appellants,
v.
Independence Plaza Associates, LLC et al.,
Respondents.

Motion by New York State Senator Thomas K. Duane, et al., insofar as it seeks leave to appear amici curiae on the motion for leave to appeal herein, granted and the proposed brief is accepted as filed; motion, insofar as it seeks leave to appear amici curiae on the appeal herein, dismissed as academic.

1 Mo. No. 2012-925
John R. Denza, et al.,
 Appellants,
 v.
Independence Plaza Associates, LLC et al.,
 Respondents.

Motion by Office of the Manhattan Borough
President Scott M. Stringer, et al., insofar as it seeks
leave to appear amici curiae on the motion for leave
to appeal herein, granted and the proposed brief is
accepted as filed; motion, insofar as it seeks leave to
appear amici curiae on the appeal herein, dismissed
as academic.

3 Mo. No. 2012-946
In the Matter of Gregory J. Gilbert,
 Appellant,
 v.
Cindy G. Lafave,
 Respondent.

Motion for leave to appeal dismissed upon the
ground that appellant is not a party aggrieved (see
CPLR 5511).
Motion for poor person relief dismissed as academic.

1 Mo. No. 2012-948
Kenzie Godfrey,
 Appellant,
 v.
G.E. Capital Auto Lease, Inc.,
 Respondent,
et al.,
 Defendants.

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

4 Mo. No. 2012-853
In the Matter of Shawn G. Granger,
 Respondent,
 v.
Danielle D. Misercola,
 Appellant.

Motion for leave to appeal granted.
Motion for poor person relief granted.

3 Mo. No. 2012-862
In the Matter of David W. Howard,
 Respondent,
 v.
Stature Electric, Inc., et al.,
 Appellants.
Workers' Compensation Board,
 Respondent.

Motion to strike the supplemental appendix and portions of the brief filed by respondent David W. Howard granted to the extent of deeming stricken the material in the brief that refers to the supplemental appendix; motion to strike otherwise denied.

3 Mo. No. 2012-981
Shannon Marie Inger, &c.,
 Appellant,
 v.
PCK Development Company, LLC, &c.,
 Respondent.

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

2 Mo. No. 2012-909
JMF Consulting Group II, Inc., &c.,
 Respondent,
 v.
Beverage Marketing USA, Inc.,
 Appellant.
(And a Third-Party Action.)

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

2 Mo. No. 2012-906
James L. Kapsis,
 Appellant,
 v.
Michael S. Peragine, et al.,
 Respondents.

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

3 Mo. No. 2012-936
Martin Kosich,
 Appellant,
 v.
Catskill Millennium Technologies, Inc., et al.,
 Defendants,
Surferz.net, Inc., et al.,
 Respondents.

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

2 Mo. No. 2012-945
The People &c. ex rel. Frank Lagano,
 Appellant,
 v.
William A. Lee,
 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.
Motion for poor person relief dismissed as academic.

1 SSD 56
James Lastra,
 Appellant,
 v.
Barnes and Noble, et al.,
 Respondents.

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

1 Mo. No. 2012-915
Latipac Corp.,
 Appellant,
 v.
BMH Realty LLC, 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.

2 Mo. No. 2012-898
In the Matter of State of New York,
Respondent,
v.
Alfredo M. (Anonymous),
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2012-857
In the Matter of City of New York,
Respondent,
v.
American Pipe and Tank Lining Co., Inc.,
Appellant.

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

2 Mo. No. 2012-905
The People &c.,
Respondent,
v.
John Reitano,
Appellant.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2012-933
Lina Rivera, &c.,
Appellant,
v.
New York Presbyterian Hospital, et al.,
Defendants,
Andrew J. Szabo, &c.,
Respondent.

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

3 Mo. No. 2012-918
In the Matter of Luis Rosales,
 Appellant,
 v.
Albert Pratt, &c.,
 Respondent.

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

3 Mo. No. 2012-928
In the Matter of Paul Sender,
 Appellant,
 v.
Nirav Shah, &c.,
 Respondent.

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

3 Mo. No. 2012-876
In the Matter of St. Lawrence County
Department of Social Services, &c.,
 Respondent,
 v.
Larry Fountain,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2012-937
In the Matter of Starpoint Central School
District,
 Appellant;
CSEA, Inc., &c.,
 Respondent.

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

3 Mo. No. 2012-919
In the Matter of Injah Tafari,
 Appellant,
 v.
Brian S. Fischer, &c.,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2012-904
In the Matter of Arkel Wilson,
 Respondent,
 v.
New York City Housing Authority, 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 proceeding within the
meaning of the Constitution and is not a nonfinal
order of the type provided for in CPLR 5602(a)(2).