

February 07, 2013

CASES

1 No. 11
Tiffany Applewhite, &c., et al.,
 Respondents,
 v.
Accuhealth, Inc., et al.,
 Defendants,
City of New York,
 Appellant.

Reargument ordered and case set down for argument during a future session of this Court.
Chief Judge Lippman and Judges Graffeo, Read, Smith and Pigott concur.

4 No. 16
The People &c.,
 Respondent,
 v.
Trevis D. Baker,
 Appellant.
(Appeal No. 1)

Order reversed, defendant's motion to suppress physical evidence granted and the indictment dismissed.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Read, Smith and Pigott concur.

4 No. 17
The People &c.,
 Respondent,
 v.
Trevis D. Baker,
 Appellant.
(Appeal No. 2)

Order reversed, defendant's plea vacated and case remitted to Monroe County Court for further proceedings on the indictment.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Read, Smith and Pigott concur.

2 No. 19
Bessie Caldwell et al.,
 Appellants,
 v.
Cablevision Systems Corporation, et al.,
 Defendants,
Communications Specialists, Inc.,
 Respondent.

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

2 No. 10
Gregory C. Miglino, Jr., &c.,
 Respondent,
 v.
Bally Total Fitness of Greater New York, Inc.,
 Appellant,
et al.,
 Defendant.

Order, insofar as appealed from, affirmed, with costs,
and certified question answered in the negative.
Opinion by Judge Read.
Judges Graffeo, Smith and Pigott concur.
Chief Judge Lippman dissents in part in an opinion.

1 No. 2
Jose Montas,
 Appellant,
 v.
JJC Construction Corporation, et al.,
 Respondents.

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

1 No. 1
United States Fidelity & Guaranty Company,
et al.,
 Respondents,
 v.
American Re-Insurance Company, et al.,
 Appellants,
et al.,
 Defendants.

Order modified, without costs, in accordance with the
opinion herein and, as so modified, affirmed, and
certified question not answered upon the ground that
it is unnecessary.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Graffeo, Read and
Pigott concur.

2 No. 7
The People &c.,
 Respondent,
 v.
Carl Watson,
 Appellant.

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

MOTIONS

3 Mo. No. 2012-1160
In the Matter of 677 New Loudon
Corporation, &c.,
 Appellant,
 v.
State of New York Tax Appeals Tribunal et
al.,
 Respondents.

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

2 Mo. No. 2012-1278
The People &c. ex rel. Arthur Aidala, on
behalf of Arthur Bogoraz,
 Appellant,
 v.
Warden, Riker's Island Correctional Facility,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2012-1263
In the Matter of Mia B. et al., &c.

Motion for leave to appeal denied.

Brandy R.,
 Appellant,
Administration for Children's Services,
 Respondent.

3 Mo. No. 2012-1268
In the Matter of Jason Boivin,
 Appellant,
 v.
Isis Gonzalez,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2012-1267
Geoffrey Bond et al.,
 Respondents,
 v.
Thomas A. Turner et al.,
 Appellants,
Village of Lakewood,
 Respondent.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2012-1229
Steven Brandstetter,
 Appellant,
et al.,
 Plaintiff,
 v.
Bally Gaming, Inc., &c.,
et al.,
 Defendants,
International Game Technology, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2012-1271
Mario Bua,
 Appellant,
 v.
Purcell & Ingrao, P.C., et al.,
 Respondents.

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

3 Mo. No. 2012-1266
The People &c. ex rel. David A. Burr,
 Appellant,
 v.
David A. Rock, &c.,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2012-1279
In the Matter of David A. Burr,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2012-1185
Cadlerock Joint Venture, L.P.,
 Respondent,
 v.
Sol Greenberg & Sons International, Inc., et
al.,
 Defendants.
Joseph Sahid, Esq.,
 Appellant.

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

1 Mo. No. 2012-1261
Viola Carol,
 Appellant,
 v.
Madison Plaza Associates, LLC,
 Respondent,
et al.,
 Defendant.

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

3 Mo. No. 2012-1122
In the Matter of Cristian Colon,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2012-1245
The People &c.,
 Appellant,
 v.
Carlos Diaz,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2012-1280
Farm Family Casualty Insurance Company,
 Appellant,
 v.
Habitat Revival, LLC, et al.,
 Respondents.

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

 Mo. No. 2013-65
The People &c.,
 Respondent,
 v.
Nature G. Finch,
 Appellant.

Motion for assignment of counsel granted and Philip Rothschild, Esq., Frank H. Hiscock Legal Aid Society, 351 South Warren Street, Syracuse, NY 13202 assigned as counsel to the appellant on the appeal herein.

4 Mo. No. 2013-41
The People &c.,
 Respondent,
 v.
Gunther J. Flinn,
 Appellant.

Motion for assignment of counsel granted and Martin P. McCarthy II, Esq., c/o Muldoon & Getz, Esqs., 144 Exchange Boulevard, Suite 402, Rochester, NY 14614 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2012-1223
Joan D. Gamman,
 Respondent,
 v.
Jill H. Silverman,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2012-1256
Ernesto Garcia-Rosales,
 Appellant,
 v.
Bais Rochel Resort, et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2012-1284
John Gilday, &c., et al.,
 Respondents,
 v.
Suffolk County National Bank,
 Appellant.

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

3 Mo. No. 2012-1244
The People &c.,
 Respondent,
 v.
David Gilmore,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2012-1260
In the Matter of Enid Gort,
 Respondent,
 v.
Donna Kull,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2012-1253
In the Matter of Ramsey H., &c.

St. Lawrence County Department of Social
Services,
 Respondent;
Benjamin K.,
 Appellant.
(And Four Other Related Proceedings.)

Motion for leave to appeal denied.

3 Mo. No. 2012-1228
In the Matter of Michael Owen He'ron,
 Appellant,
 v.
Department of Correctional Services,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2013-82
The People &c.,
 Respondent,
 v.
Josefina Jimenez,
 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. 2012-1193
JP Morgan Chase & Co., et al.,
 Appellants,
 v.
Indian Harbor Insurance Company, et al.,
 Defendants,
Arch Insurance Company, et al.,
 Respondents.

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

1 Mo. No. 2012-1274
David P. Kaplan, et al.,
 Respondents,
 v.
Madison Park Group Owners, LLC, et al.,
 Defendants,
David Lipman,
 Appellant.

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

1 Mo. No. 2012-1246
In the Matter of Sheureka L.,
 Respondent,
 v.
Sidney S.,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2012-1224
In the Matter of Michelle M. (Anonymous).

O'Hel Children's Home and Family Services,
 Respondent;
Mazoltuv B. (Anonymous),
 Appellant.

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

4 Mo. No. 2012-1238
In the Matter of Jessica Leigh Marsh,
 Appellant,
 v.
Jason Michael Hardy,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2012-1249
In the Matter of Jaden Christopher W.-McC.,
&c.

Michael L. McC., &c.,
 Appellant,
Jewish Child Care Association of New York,
 Respondent.

Motion for leave to appeal denied.

Mo. No. 2012-1272
In the Matter of Francis Moulton,
Appellant,
v.
Brian Fischer, &c.,
Respondent.

Motion for leave to appeal dismissed upon the
ground that the issues presented have become moot.

2 Mo. No. 2012-1273
In the Matter of Abraham Neustein, deceased.

Amy Neustein,
Respondent,
v.
Estate of Abraham Neustein,
et al.,
Appellants.

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

3 Mo. No. 2012-1276
State of New York,
Respondent,
v.
158th Street & Riverside Drive Housing
Company, Inc.,
Defendant,
A.M.G. Properties Company et al.,
Appellants.

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

2 Mo. No. 2012-1159
Parviz Noghrey,
Respondent-Appellant.
v.
Town of Brookhaven, et al.,
Appellants-Respondents.

Motion for reargument denied.

2 Mo. No. 2012-522
The People &c.,
 Respondent,
 v.
Albert Olin,
 Appellant.

Motion for leave to appeal dismissed upon the ground that the issues presented have become moot.

2 Mo. No. 2013-30
The People &c.,
 Appellant,
 v.
Vinod Patel,
 Respondent.

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 respondent on the appeal herein.

2 Mo. No. 2012-1250
In the Matter of Stephen Risi,
 Appellant,
 v.
Alissa Risi,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2012-1257
Brooks O.S. (Anonymous), &c.,
 Appellant,
 v.
Huntington Union Free School District,
 Respondent.

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

2 Mo. No. 2013-56
The People &c.,
 Respondent,
 v.
Cheryl Santiago,
 Appellant.

Motion for assignment of counsel granted and Malvina Nathanson, Esq., 40 Exchange Place, Suite 2010, New York, NY 10005 assigned as counsel to the appellant on the appeal herein.

3 Mo. No. 2012-1275
In the Matter of Suburban Restoration
Company, Inc.,
 Appellant,
 v.
Office of the State Comptroller,
 Respondent.

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

1 Mo. No. 2012-1237
In the Matter of Ernie Luis T., &c.

Enid F.,
 Appellant,
Family Support Systems Unlimited, Inc.,
 Respondent.

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

2 Mo. No. 2012-1277
In the Matter of Niaja A.W. (Anonymous).

Administration for Children's Services et al.,
 Respondents;
Paulette G. (Anonymous),
 Appellant,
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 proceeding within the
meaning of the Constitution.
Motion for poor person relief dismissed as academic.

 Mo. No. 2013-112
The People &c.,
 Respondent,
 v.
Patrick Williams,
 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.