

February 12, 2013

CASES

1 No. 83 SSM 1
In the Matter of Perry Bellamy,
 Appellant,
 v.
New York City Police Department,
 Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, without costs, and certified question not answered on the ground that it is unnecessary. In denying the subject Freedom of Information Law request, the Appellate Division did not abuse its discretion.
Chief Judge Lippman and Judges Graffeo, Read, Smith and Pigott concur.
Judge Rivera took no part.

4 No. 5
The People &c.,
 Respondent,
 v.
Rafael L. Belliard,
 Appellant.

Order affirmed.
Opinion by Judge Graffeo.
Judges Read, Smith and Pigott concur.
Chief Judge Lippman dissents in an opinion.
Judge Rivera took no part.

4 No. 25
The People &c.,
 Respondent,
 v.
Jarvis Lassalle,
 Appellant.

Order affirmed, in a memorandum.
Chief Judge Lippman and Judges Graffeo, Read, Smith and Pigott concur.
Judge Rivera took no part.

4 No. 15
The People &c.,
 Respondent,
 v.
Cornell Long,
 Appellant.

Order reversed, without costs, and case remitted to Supreme Court, Erie County, for further proceedings in accordance with the opinion herein.
Opinion by Chief Judge Lippman.
Judges Graffeo, Read, Smith and Pigott concur.
Judge Rivera took no part.

2 No. 14
The People &c.,
Respondent,
v.
Michael Palmer,
Appellant.

Order reversed, without costs, and case remitted to
Supreme Court, Kings County, for further
proceedings in accordance with the opinion herein.
Opinion by Chief Judge Lippman.
Judges Graffeo, Read, Smith and Pigott concur.
Judge Rivera took no part.

3 No. 8
In the Matter of the Arbitration between
Shenendehowa Central School District Board
of Education,
Appellant,
and
Civil Service Employees Association, Inc.,
Local 1000, AFSCME, AFL-CIO, Local 864,
et al.,
Respondents.

Order affirmed, with costs, in a memorandum.
Chief Judge Lippman and Judges Graffeo, Read,
Smith and Pigott concur.
Judge Rivera took no part.

4 No. 13
The People &c.,
Appellant,
v.
Damien Warren,
Respondent.

Order affirmed.
Opinion by Judge Read.
Chief Judge Lippman and Judges Graffeo, Smith and
Pigott concur.
Judge Rivera took no part.

MOTIONS

1 Mo. No. 2013-62
Vittorio Antonini, &c., et al.,
 Respondents,
 v.
Orazio Petito, 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.
Judge Rivera took no part.

 SSD 4
Philip Caprio and Phyllis Caprio,
 Appellants,
 v.
New York State Department of Taxation and Finance, et al.,
 Respondents,
 and
Andrew M. Cuomo, in his Official Capacity as the Governor of the State of New York,
 Defendant.

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, First Department, upon the ground that a direct appeal does not lie when questions other than the constitutional validity of a statutory provision are involved (NY Const, art VI, §§ 3[b][2], 5[b]; CPLR 5601[b][2]).
Judge Rivera took no part.

2 Mo. No. 2012-1221
In the Matter of Village of Chestnut Ridge, et al.,
 Appellants,
et al.,
 Petitioners,
 v.
Town of Ramapo, et al.,
 Respondents.

Motion, insofar as it seeks leave to appeal against Mosdos Chofetz Chaim, Inc., dismissed upon the ground that as to that party the order sought to be appealed from does not finally determine the action/proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.
Judge Rivera took no part.

4 Mo. No. 2012-1283
In the Matter of Kendall L.D.,
 Appellant,
 v.
Chad N.,
 Respondent.
Attorney for the Child,
 Appellant.

Motions for leave to appeal denied.
Judge Rivera took no part.

2 Mo. No. 2013-57
The People &c.,
 Respondent,
 v.
Richardson DeCastro,
 Appellant.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.
Judge Rivera took no part.

4 Mo. No. 2012-1218
In the Matter of John Doe,
 Appellant,
 v.
New York State Commission on Judicial
Conduct,
 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.
Judge Rivera took no part.

3 Mo. No. 2013-43
In the Matter of Tuhin S. Dutta,
 Appellant,
 v.
Commissioner of Labor,
 Respondent.

Motion for reargument of motion for leave to appeal
denied.
Judge Rivera took no part.

2 Mo. No. 2013-16
The People &c.,
 Respondent,
 v.
Philip Farrice,
 Appellant.

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

1 Mo. No. 2012-1290
Galina Panova Fedoff,
Respondent,
v.
Boris Winthrop Fedoff,
Appellant.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.
Judge Rivera took no part.

3 Mo. No. 2013-3
The People &c. ex rel. Dominic M. Franza,
Appellant,
v.
Michael Sheahan, &c.,
Respondent.

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

2 Mo. No. 2013-24
The People &c.,
Respondent,
v.
Walter D. Fryer,
Appellant.

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

2 Mo. No. 2013-66
The People &c.,
Respondent,
v.
Robert Geehrens,
Appellant.

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

2 Mo. No. 2012-1289
Tomasz Grygo, et al.,
Appellants,
v.
1116 Kings Highway Realty, LLC,
Respondents.

Motion for leave to appeal denied with one hundred
dollars costs and necessary reproduction
disbursements.
Judge Rivera took no part.

1 Mo. No. 2013-26
Kateri Residence, &c., et al.,
Respondents,
v.
Antonia C. Novello, M.D., &c.,
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/proceeding within the meaning of the Constitution. Judge Rivera took no part.

1 Mo. No. 2012-1292
David R. Kittay, &c.,
Appellant,
v.
Herbert Moskowitz, et al.,
Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements. Judge Rivera took no part.

3 Mo. No. 2013-28
In the Matter of Lorraine L. Mahoney,
Respondent,
v.
Steven J. Regan,
Respondent.
Attorney for the Children,
Appellant.

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

4 Mo. No. 2012-1288
In the Matter of Kimberly Marshall,
Appellant,
v.
Pittsford Central School District, et al.,
Respondents.

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

2 Mo. No. 2012-1233
Judith May,
 Appellant,
 v.
Lorenzo Scotto-D'Abusco,
 Respondent.

Motion for leave to appeal dismissed upon the ground that the Court of Appeals does not have jurisdiction to entertain this motion for leave to appeal from the order of the Appellate Division entered in this action commenced in the Civil Court of the City of New York (see NY Const, art VI, § 3[b][7]; CPLR 5602).
Judge Rivera took no part.

4 Mo. No. 2013-8
In the Matter of Victor Medina,
 Appellant,
 v.
William F. Hulihan, &c.,
 Respondent.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.
Judge Rivera took no part.

1 Mo. No. 2012-1294
In the Matter of The City of New York, et al.,
 Appellants,
 v.
The Commissioner of Labor,
et al.,
 Respondents.

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

1 Mo. No. 2013-54
In the Matter of Theophilus Y. Ojuola,
 Appellant,
 v.
New York State Division of Human Rights,
 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.
Judge Rivera took no part.

3 Mo. No. 2012-1227
Emanuel Polak,
 Appellant,
 v.
Carlton Resources, Inc., et al.,
 Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Judge Rivera took no part.

1 Mo. No. 2012-1190
In the Matter of Daniel Z. Rapoport, et al.,
Executors of the Estate of Boris Lurie,
Deceased.

American Friends of New Communities in
Israel Inc.,
et al.,
Proposed Intervenor-Appellants,
Richard Nadelman, et al.,
 Respondents,
Boris Lurie Art Foundation,
 Respondent,
Elizabeth Goodman,
 Respondent.

Motion, insofar as it seeks leave to appeal from that part of the Appellate Division order affirming the order that denied the motion to intervene, dismissed upon the ground that such portion of the order does not finally determine the proceeding within the meaning of the Constitution; motion, insofar as it seeks leave to appeal from the remainder of the Appellate Division order, dismissed upon the ground that absent an order of intervention, movants are not parties to the proceeding and thus lack capacity to challenge that part of the order.
Judge Rivera took no part.

3 SSD 6
In the Matter of Mohamed Saad-El-Din et al.,
Individually and as Parents and Guardians of
Student with a Disability R., an Infant, et al.,
 Appellants,
 v.
David M. Steiner, as Commissioner of
Education, et al.,
 Respondents.

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

1 Mo. No. 2013-21
Stephen Sicilia,
 Plaintiff,
 v.
City of New York, et al.,
 Respondents,
JB Electric LLC,
 Appellant.
(And Third-Party Actions.)

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.
Judge Rivera took no part.

3 Mo. No. 2013-7
In the Matter of Christopher Stein,
 Appellant,
 v.
Ithaca Police Department et al.,
 Respondents.

Motion for reargument of motion for leave to appeal denied.
Judge Rivera took no part.

2 Mo. No. 2013-32
County of Suffolk, &c.,
 Appellant,
 v.
Long Island Power Authority,
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.
Judge Rivera took no part.

3 Mo. No. 2012-1243
Nathaniel M. Swergold,
 Appellant,
et al.,
 Plaintiffs,
 v.
Andrew M. Cuomo, &c., et al.,
 Defendants,
Thomas P. DiNapoli, &c., et al.,
 Respondents.
(And Two Other Proceedings.)

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

2 Mo. No. 2012-1287
In the Matter of Christopher T. (Anonymous).

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

St. Vincent's Children's Services, Inc.,
Respondent;
Margarita V. (Anonymous),
Appellant;
et al.,
Respondent.

3 SSD 5
In the Matter of Ben Gary Treistman,
Appellant,
v.
Suzanne Mary Cayley,
Respondent.

Appeal dismissed without costs, by the Court sua
sponte, upon the ground that it does not lie (see
CPLR 5601).
Judge Rivera took no part.

2 Mo. No. 2013-18
Deepak Trivedi,
Appellant,
v.
Robert Golub,
Defendant,
Flushing Hospital Medical Center,
Respondent.

Motion for reargument of motion for leave to appeal
denied.
Judge Rivera took no part.

1 Mo. No. 2012-1225
Turnberry Residential Limited Partner, L.P.,
Appellant,
v.
Wilmington Trust FSB,
Respondent.

Motion for leave to appeal denied with one hundred
dollars costs and necessary reproduction
disbursements.
Judge Rivera took no part.

3 Mo. No. 2013-38
In the Matter of Ulster County Sheriff's
Employees Association, CWA Local 1105,
Respondent,
v.
Ulster County Sheriff's Department et al.,
Appellants.

Motion for leave to appeal denied with one hundred
dollars costs and necessary reproduction
disbursements.
Judge Rivera took no part.

2 Mo. No. 2013-13
In the Matter of Latricha Van Dunk,
Appellant,
v.
Richard Bonilla,
Respondent.

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

3 Mo. No. 2012-1234
In the Matter of Jack Vigliotti,
Appellant,
v.
State of New York Executive Division of
Parole,
Respondent.

Motion for leave to appeal dismissed upon the
ground that the issue presented has become moot.
Motion for poor person relief dismissed as academic.
Judge Rivera took no part.

2 Mo. No. 2012-1252
The People &c.,
Respondent,
v.
Kevin Williams,
Appellant.

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

1 Mo. No. 2012-1215
Women's Interart Center, Inc.,
 Plaintiff,
 v.
New York City Economic Development
Corporation, et al.,
 Defendants.

Women's Interart Center, Inc.,
 Appellant,
 v.
Clinton Housing Development Fund Corp.,
 Respondent,
City of New York,
 Intervenor-Respondent.

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.
Judge Rivera took no part.