

February 19, 2013

CASES

4 No. 21

In the Matter of Roxanne Adrian,
 Appellant,

v.

Board of Education of City School District of
City of Niagara Falls et al.,
 Respondents.

Order affirmed, with costs.

Opinion by Judge Read.

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

Judge Rivera took no part.

4 No. 20

In the Matter of Karri Beck-Nichols,
 Respondent,

v.

Cynthia A. Bianco, &c., et al.,
 Appellants.

Judgment reversed, with costs, and petition
dismissed.

Opinion by Judge Read.

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

Judge Rivera took no part.

4 No. 27

In the Matter of Keli-Koran Luchey,
 Respondent,

v.

Board of Education of City School District of
the City of Niagara Falls et al.,
 Appellants.

Order reversed, with costs, and matter remitted to
Supreme Court, Niagara County, for further
proceedings in accordance with the opinion herein.

Opinion by Judge Read.

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

Judge Rivera took no part.

3 No. 4

In the Matter of M.G.M. Insulation, Inc., et
al.,

 Appellants,

v.

Colleen C. Gardner, &c.,
 Respondent.

Judgment reversed, with costs, petition granted and
respondent's determination annulled.

Opinion by Judge Pigott.

Judges Graffeo, Read and Smith concur.

Chief Judge Lippman dissents and votes to affirm in
an opinion.

Judge Rivera took no part.

3 No. 6
In the Matter of New York State Office of
Victim Services, &c.,
 Respondent,
 v.
Steven C. Raucci,
 Appellant,
Shelley Raucci,
 Nonparty-Appellant.

 No. 119
Alfred G. Osterweil,
 Appellant,
 v.
George R. Bartlett, III,
 Respondent.

4 No. 9
The People &c.,
 Respondent,
 v.
Robert Pealer,
 Appellant.

4 No. 85 SSM 49
In the Matter of Willard Saperston,
 Appellant,
 v.
Heather Holdaway,
 Respondent.

Order reversed, with costs, and matter remitted to the Appellate Division, Third Department, for consideration of the facts and issues raised but not determined on the appeal to that court, in a memorandum.
Chief Judge Lippman and Judges Graffeo, Read, Smith and Pigott concur.
Judge Rivera took no part.

Certification of a question 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 Graffeo, Read, Smith, Pigott and Rivera concur.

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

On review of submissions pursuant to section 500.11 of the Rules, appeal dismissed, without costs, upon the ground that the two-justice dissent at the Appellate Division is not on a question of law within the meaning of CPLR 5601(a).
Chief Judge Lippman and Judges Graffeo, Read, Smith and Pigott concur.
Judge Rivera took no part.

2 No. 24
The People &c.,
Respondent,
v.
Daniel Vasquez,
Appellant.

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

MOTIONS

4 Mo. No. 2013-84
The People &c.,
 Respondent,
 v.
Rodney Adams,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2012-1270
In the Matter of Relly Adler,
 Appellant,
 v.
New York City Housing Authority,
 Respondent.

Motion for leave to appeal dismissed upon the ground that the proceeding and the motion have abated because of the death of the appellant.

2 Mo. No. 2012-1213
In the Matter of Joseph S. Alessandro, an
attorney and counselor-at-law.

Motion for leave to appeal denied.
Chief Judge Lippman took no part.

Grievance Committee for the Ninth Judicial
District,
 Respondent;
Joseph S. Alessandro,
 Appellant.

Motion for reargument of motion for leave to appeal denied.

1 Mo. No. 2013-51
William Anderson,
 Appellant,
 v.
New York City Department of Education,
 Respondent.

3 Mo. No. 2013-55
Kathleen Bailey,
 Appellant,
 v.
Village of Saranac Lake, Inc.,
 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.

1 Mo. No. 2013-35
The People &c.,
 Respondent,
 v.
Christopher B.,
 Appellant.

Motion for leave to appeal denied.

2 SSD 9
Bay Crest Association, Inc.,
Respondent,
v.
Louis Paar, et al.,
Appellants.

Appeal by Louis Paar, insofar as taken from so much of the Appellate Division order as dismissed his appeal from so much of Supreme Court's order as granted that branch of respondent's motion which was pursuant to CPLR 2606 for the payment from funds belonging to Suzanne De Lisi and held in two accounts by the Suffolk County Treasurer in satisfaction of the judgment insofar as it was entered against Suzanne De Lisi, dismissed without costs by the Court sua sponte, upon the ground that Louis Paar is not a party aggrieved by that portion of the order (see CPLR 5511); appeal by Suzanne De Lisi, insofar as taken from that part of the Appellate Division order that affirmed the grant of respondent's CPLR 2606 motion as against Suzanne De Lisi, dismissed without costs by the Court sua sponte, upon the ground that such part of the order does not finally determine the action within the meaning of the Constitution; appeal by both appellants, insofar as taken from that part of the Appellate Division order that affirmed so much of Supreme Court's order as denied appellants' motion to vacate a prior judgment, dismissed without costs by the Court sua sponte, upon the ground that such part of the order does not finally determine the action within the meaning of the Constitution; appeal by both appellants, insofar as taken from that part of the Appellate Division order that affirmed so much of Supreme Court's order as denied appellants' motion to hold respondent's attorney in criminal and civil contempt, 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. 2012-1295
In the Matter of Bear, Stearns & Co., Inc.,
&c., et al.,
 Respondents,
 v.
International Capital & Management
Company LLC,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2013-69
In the Matter of Sharon K. Bland,
 Appellant,
 v.
Gellman, Brydges & Schroff,
et al.,
 Respondents,
Workers' Compensation Board,
 Respondent.
(And Another Proceeding.)

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.

4 Mo. No. 2012-1088
In the Matter of Adam Bobak,
 Appellant,
 v.
AIG Claims Services, Inc.,
et al.,
 Respondents.

On the Court's own motion, appeal dismissed,
without costs, upon the ground that the nonfinal
order sought to be reviewed on appeal does not
necessarily affect the final Appellate Division order,
as required by CPLR 5601(d), and thus cannot
provide a constitutional predicate for the appeal.
Motion for leave to appeal denied.
Chief Judge Lippman took no part.

3 Mo. No. 2013-68
In the Matter of William F. Bonez,
 Appellant,
 v.
State of New York et al.,
 Respondents.

Motion for leave to appeal denied.

Mo. No. 2013-47
The People &c. ex rel. James Brown,
Appellant,
v.
Thomas Griffin, &c.,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2012-1262
Ethel Burwell,
Appellant,
et al.,
Plaintiff,
v.
City of New York, et al.,
Defendants,
Subway, et al.,
Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2013-80
In the Matter of Elena Camet,
Appellant,
v.
County of Suffolk,
Respondent.

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

2 Mo. No. 2013-60
In the Matter of Peter J. Galasso, &c., an
attorney and counselor-at-law.

Motion for leave to appeal denied.
Motion for a stay dismissed as academic.
Judge Rivera took no part.

Grievance Committee for the Ninth Judicial
District,
Respondent;
Peter J. Galasso,
Appellant.

2 Mo. No. 2013-108
In the Matter of Peter J. Galasso, &c., an
attorney and counselor-at-law.

Grievance Committee for the Ninth Judicial
District,
 Respondent;
Peter J. Galasso,
 Appellant.

Motion by The Bronx County Bar Association,
insofar as it seeks leave to file a brief amicus curiae
on the motion for leave to appeal herein, granted and
the brief is accepted as filed; motion, insofar as it
seeks leave to file a brief amicus curiae on the appeal
herein, dismissed as academic.
Judge Rivera took no part.

2 Mo. No. 2013-91
Laura Geary,
 Appellant,
 v.
Church of St. Thomas Aquinas,
 Respondent.

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

1 Mo. No. 2012-1282
Golden City Commercial Bank,
 Plaintiff,
 v.
207 Second Avenue Realty Corp., et al.,
 Defendants.

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.

Michael G. Zapson, &c.,
 Nonparty-Respondent,
 v.
Janet Chang,
 Nonparty-Appellant.

1 Mo. No. 2012-1291
In the Matter of Charles Goodacre,
 Appellant,
 v.
Raymond Kelly, &c., et al.,
 Respondents.

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

2 Mo. No. 2013-31

The People &c.,
Respondent,
v.
Steve Harris,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2012-1177

In the Matter of the Judicial Settlement of the
Intermediate Account of HSBC Bank USA,
N.A., &c.

HSBC Bank USA, N.A.,
Respondent;
W.A. Read Knox, et al.,
Appellants;
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 proceeding within the
meaning of the Constitution.
Judge Pigott took no part.

4 Mo. No. 2012-1179

In the Matter of the Judicial Settlement of the
Intermediate Account of HSBC Bank USA,
N.A. and Seymour H. Knox, IV, &c.

HSBC Bank USA, N.A.,
Respondent;
Seymour H. Knox, IV,
Appellant.

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

3 Mo. No. 2013-29

In the Matter of Jayden J., &c.

St. Lawrence County Department of Social
Services,
Respondent;
Johanna K.,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2013-48
In the Matter of Michael JJ.,
et al., &c.

Motion for leave to appeal denied.

Tompkins County Department of Social
Services,
 Respondent;
Colleen JJ.,
 Appellant.
(And Another Proceeding.)

1 Mo. No. 2013-25
Dr. Tulsa Knox,
 Appellant,
 v.
New York City Department of Education,
 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.

4 Mo. No. 2012-1178
In the Matter of the Judicial Settlement of the
Intermediate Account of W.A. Read Knox,
&c.

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

HSBC Bank USA, N.A.,
 Respondent;
Jean R. Knox, et al.,
 Appellants,
et al.,
 Respondents.

2 Mo. No. 2013-40
L&L Associates Holding Corp.,
 Respondent,
 v.
Joseph A. F. Sadowski,
 Appellant,
et al.,
 Defendants.

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.
Motion for a stay dismissed as academic.

4 Mo. No. 2013-88
In the Matter of Andie M. et al.

Onondaga County Department of Social
Services,
 Respondent,
Kimberly M. and Andrew M.,
 Appellants.

Motions for leave to appeal denied.
Motion by Kimberly M. for poor person relief
dismissed as academic.

1 Mo. No. 2013-70
The People &c.,
 Respondent,
 v,
Hector Martinez,
 Appellant.

Motion to amend the remittitur denied.
Judge Rivera took no part.

2 Mo. No. 2013-74
In the Matter of Stephen T. Mitchell,
 Appellant,
 v.
Patricia DiMango, &c. et al.,
 Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2013-86
The People &c. ex rel. Rafael Rodriguez,
 Appellant,
 v.
William Lee, &c.,
 Respondent.

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

1 Mo. No. 2012-1216
In the Matter of Alvin Rosenthal, et al.

The American Society for the Prevention of
Cruelty to Animals, et al.,
Proposed Intervenors-Appellants,
David Panzirer, et al.,
Respondents.

Motion, insofar as it seeks leave to appeal from that
portion of the Appellate Division order that affirmed
the denial of intervention, 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.
Judge Smith took no part.

1 Mo. No. 2012-1239
In the Matter of Alvin Rosenthal, et al.

The American Society for the Prevention of
Cruelty to Animals, et al.,
Proposed Intervenors-Appellants,
David Panzirer, et al.,
Respondents.

Motion by William Josephson and Marilyn Ordoover,
insofar as it seeks leave to file a brief amici curiae on
the motion for leave to appeal herein, granted and the
brief is accepted as filed; motion, insofar as it seeks
leave to file a brief amici curiae on the appeal herein
dismissed as academic.
Judge Smith took no part.

2 Mo. No. 2013-95
Lingfei Sun,
Appellant,
v.
City of New York, et al.,
Defendants,
New York City Health and Hospitals
Corporation, et al.,
Respondents.

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

2 Mo. No. 2013-85
Vescon Construction, Inc., &c.,
Appellant,
v.
Gerelli Insurance Agency, Inc.,
Defendant,
Utica First Insurance Company,
Respondent.

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

4 Mo. No. 2012-1247

Wells Fargo Bank, N.A.,
Plaintiff,

v.

Ali A. Zahran, &c.,
Defendant.

Ali A. Zahran, &c.,
Third-Party Appellant,

v.

Michael Viscome, et al.,
Third-Party Defendants,
Rupp, Baase, Pfalzgraf, Cunningham &
Coppola, LLC,
Third-Party Respondent.

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

3 Mo. No. 2013-73

In the Matter of James WW., &c.

Rensselaer County Department of Social
Services,

Respondent;

Tara XX.,

Appellant.

(And Another Related Proceeding.)

Motion for leave to appeal denied.
Motion for a stay dismissed as academic.

4 Mo. No. 2012-1150

Mostafa Zolfaghari,
Appellant,

v.

Hughes Network Systems, LLC,
et al.,

Respondents.

(And a Third-Party Action.)

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