

March 28, 2013

**CASES**

<p style="text-align: right;">No. 47</p> <p>The People &amp;c., Respondent, v. Keith A. Adams, Appellant.</p>	<p>Order reversed and case remitted to Rochester City Court for further proceedings in accordance with the opinion herein. Opinion by Judge Pigott. Chief Judge Lippman and Judges Graffeo, Read, Smith and Rivera concur.</p>
<p>1                      No. 34</p> <p>Amazon.com, LLC, et al., Appellants, v. New York State Department of Taxation and Finance, et al., Respondents.</p>	<p>Judgment appealed from and order of the Appellate Division brought up for review affirmed, with costs. Opinion by Chief Judge Lippman. Judges Graffeo, Read and Pigott concur. Judge Smith dissents in an opinion. Judge Rivera took no part.</p>
<p>1                      No. 36</p> <p>The People &amp;c., Respondent, v. Austin Cornelius, Appellant.</p>	<p>Order affirmed, in a memorandum. Chief Judge Lippman and Judges Graffeo, Read, Smith and Pigott concur. Judge Rivera took no part.</p>
<p>4                      No. 35</p> <p>The People &amp;c., Respondent, v. Dayshawn P. Handy, Appellant.</p>	<p>Order reversed and a new trial ordered. Opinion by Judge Smith. Chief Judge Lippman and Judges Graffeo, Read and Pigott concur. Judge Rivera took no part.</p>

1                    No. 45  
The People &c.,  
    Respondent,  
    v.  
Kirk Hanley,  
    Appellant.

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

4                    No. 38  
Kenneth J. Hecker,  
    Appellant,  
    v.  
State of New York,  
    Respondent.

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

1                    No. 33  
Overstock.com, Inc.,  
    Appellant,  
    v.  
New York State Department of Taxation and  
Finance, et al.,  
    Respondents.

Judgment appealed from and order of the Appellate  
Division brought up for review affirmed, with costs.  
Opinion by Chief Judge Lippman.  
Judges Graffeo, Read and Pigott concur.  
Judge Smith dissents in an opinion.  
Judge Rivera took no part.

## MOTIONS

3                    Mo. No. 2013-147  
The People &c. ex rel. Prince Backman,  
Appellant,  
v.  
Jim Walsh, &c.,  
Respondent.

Motion for leave to appeal denied.

4                    Mo. No. 2013-136  
Bank of New York Mellon, &c.,  
Respondent,  
v.  
Jean Whitty, &c.,  
Appellant,  
et al.,  
Defendants.

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

2                    Mo. No. 2013-128  
In the Matter of Carmine A. B. (Anonymous).  
  
Suffolk County Department of Social  
Services,  
Respondent;  
Nicole B. (Anonymous),  
Appellant.  
(And Another Proceeding.)

Motion for leave to appeal denied.

2                    SSD 13  
In the Matter of Ralph T. Byrd, a suspended  
attorney.

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

Grievance Committee for the Tenth Judicial  
District,  
Respondent;  
Ralph T. Byrd,  
Appellant.

3                    Mo. No. 2013-127  
In the Matter of Shane Chatelle,  
                    Appellant,  
                    v.  
North Country Community College,  
                    Respondent.

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

2                    Mo. No. 2012-1254  
Ann C. Cunningham, &c.,  
                    Respondent,  
                    v.  
Julia M. Baldari,  
                    Appellant,  
et al.,  
                    Defendants.  
(And a Third-Party Action.)  
(And Another Action.)

Motion for leave to appeal denied.

1                    Mo. No. 2013-99  
The People &c.,  
                    Respondent,  
                    v.  
Ernest Davis,  
                    Appellant.

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain the motion from the order of the Appellate Term (see CPLR 5602[a]).  
Motion for poor person relief dismissed as academic.

4                    Mo. No. 2013-113  
In the Matter of the Foreclosure of Tax Liens  
&c.  
  
County of Livingston,  
                    Appellant;  
Jeffrey Mort,  
                    Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2013-190  
Alexandra Gomez-Jimenez, et al.,  
                    Appellants,  
                    v.  
New York Law School,  
                    Respondent,  
DOES 1-20, et al.,  
                    Defendants.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.  
Chief Judge Lippman and Judges Graffeo, Read and Pigott concur.  
Judge Smith dissents and votes to grant leave to appeal.  
Judge Rivera took no part.

2                    Mo. No. 2013-129  
The People &c.,  
                    Appellant,  
                    v.  
Gaspari Gutierrez-Lucero,  
                    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.

3                    Mo. No. 2013-63  
In the Matter of Georgiana H. Jungels,  
                    Appellant,  
                    v.  
SUNY Buffalo,  
                    Respondent.  
Workers' Compensation Board,  
                    Respondent.

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

4                    Mo. No. 2013-131  
In the Matter of Ashlea Kasprowicz,  
                    Respondent,  
                    v.  
Kristopher Osgood,  
                    Appellant.  
(And Another Proceeding.)

Motion for leave to appeal denied.

2                    SSD 14  
In the Matter of Keijonte W. (Anonymous).

Administration for Children's Services,  
Respondent,  
Tamarra W. (Anonymous),  
Appellant,  
et al.,  
Respondent.  
(And Four Other Proceedings.)

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

4                    Mo. No. 2013-141  
In the Matter of Joanna P.,  
et al.

Erie County Department of Social Services,  
Respondent;  
Patricia M.,  
Appellant.

Motion for leave to appeal denied.

4                    Mo. No. 2013-118  
The People &c. ex rel. Kenneth Moore,  
Appellant,  
v.  
John Lempke, &c. et al.,  
Respondents.

Motion for leave to appeal denied.

1                    Mo. No. 2012-1259  
Lorraine Munroe,  
    Appellant,  
    v.  
Park Ave South Management et al.,  
    Respondents.

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Lorraine Munroe,  
    Appellant,  
    v.  
The State of New York,  
    Respondent.

3                    Mo. No. 2013-44  
David Murchison,  
    Appellant,  
    v.  
State of New York,  
    Respondent.

3                    Mo. No. 2012-1258  
In the Matter of County of Nassau et al.,  
    Appellants,  
    v.  
State of New York et al.,  
    Respondents,  
New York State Board of Elections et al.,  
    Respondents.

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

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

Motion, insofar as made by Nassau County Board of  
Elections and William T. Biamonte, for leave to  
appeal from so much of the Appellate Division order  
as affirmed the Supreme Court judgment, dismissed  
upon the ground that those parties, having not  
appealed from the judgment to the Appellate  
Division, may not appeal to this Court from that part  
of the Appellate Division order affirming the  
judgment; motion, insofar as made by County of  
Nassau and John A. DeGrace, for leave to appeal  
from so much of the Appellate Division order as  
affirmed the Supreme Court judgment, denied;  
motion for leave to appeal otherwise dismissed upon  
the ground that the remaining portions of the  
Appellate Division order do not finally determine the  
proceeding within the meaning of the Constitution.

1                    Mo. No. 2013-100  
City of New York,  
    Respondent,  
    v.  
TransportAzumah LLC,  
    Appellant.

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as affirmed the October 2011 Supreme Court order, dismissed upon the ground that such portion of the order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

1                    Mo. No. 2013-200  
Nineteen Eighty-Nine, LLC,  
    Plaintiff,  
    v.  
Icahn Enterprises L.P., et al.,  
    Defendants.

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

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Carl C. Icahn, et al.,  
    Appellants,  
    v.  
Geoffrey Raynor, et al.,  
    Respondents.

2                    Mo. No. 2013-139  
Matter of Joseph O'D. (Anonymous).

Motion for leave to appeal denied.

Orange County Department of Social  
Services,  
    Respondent;  
Denise O'D. (Anonymous),  
    Appellant.  
(And Another Proceeding.)



4                    Mo. No. 2013-78  
The People &c.,  
    Respondent,  
    v.  
Richard Odum,  
    Appellant.

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain this motion for leave to appeal from the order of the Appellate Division where the appeal to the Appellate Division was from an order entered in an appeal from another court (see NY Const, art VI, § 3[b][7]; CPLR 5602[a]).

1                    Mo. No. 2012-1255  
The People &c.,  
    Respondent,  
    v.  
Daniel Otero,  
    Appellant.

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

4                    Mo. No. 2013-87  
In the Matter of Cindy M.P.  
et al.,  
    Respondents,  
    v.  
Eugene D.H.,  
    Appellant.

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

2                    Mo. No. 2013-98  
In the Matter of Marvin Pollack,  
    Appellant,  
    v.  
Peter Formica,  
    Respondent.  
(And Another Proceeding.)

On the Court's own motion, appeal dismissed, without costs, upon the ground that the order appealed from does not finally determine the proceedings 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 proceedings within the meaning of the Constitution.  
Motion for poor person relief dismissed as academic.

1                    Mo. No. 2013-64  
In the Matter of Jeremiah Emmanuel R., &c.

Motion for leave to appeal denied.

Sylvia C.,  
Appellant,  
Leake and Watts Services, Inc.,  
Respondent.

2                    Mo. No. 2013-146  
In the Matter of Forrest S.-R.

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.

Administration for Children's Services,  
Respondent;  
Shirley X. S.,  
Appellant;  
Forrest R.,  
Nonparty-Respondent.

3                    Mo. No. 2012-1202  
In the Matter of Parvinder Singh Salh,  
Appellant,  
v.  
Tax Appeals Tribunal of the State of New  
York et al.,  
Respondents.

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

1                    Mo. No. 2013-106  
In the Matter of Craig S.,  
Appellant,  
v.  
Donna S.,  
Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2013-145  
The People &c. ex rel. Shirley X. S.,  
                    Appellant,  
                    v.  
Forrest R.,  
                    Respondent;  
Administration for Children's Services,  
                    Nonparty-Respondent.

Motion for leave to appeal denied.