

February 12, 2009

**CASES**

No. 3

Vivia Amalfitano and Gerard  
Amalfitano,

Respondents,

v.

Armand Rosenberg,

Appellant.

Following certification of questions by the United States Court of Appeals for the Second Circuit and acceptance of the questions by this Court pursuant to section 500.27 of the Rules of Practice of the New York State Court of Appeals, and after hearing argument by counsel for the parties and consideration of the briefs and the record submitted, certified questions answered in accordance with the opinion herein.

Opinion by Judge Read.

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

Chief Judge Lippman took no part.

No. 17

The People &c.,

Respondent,

v.

Chris Dorm,

Appellant.

Order affirmed.

Opinion by Judge Jones.

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

Chief Judge Lippman took no part.

No. 1

The People &c., ex rel. Anthony  
Gill,

Respondent,

v.

Gary Greene, as Superintendent of  
Great Meadow Correctional  
Facility,

Appellant.

Order reversed, without costs, and petition dismissed.

Opinion by Judge Smith.

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

Chief Judge Lippman took no part.

No. 77 SSM 54  
The People &c.,  
Respondent,  
v.  
Tyrone Maye,  
Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order modified by granting defendant's motion to suppress the cocaine recovered and remitting to County Court, Warren County, for further proceedings in accordance with the memorandum herein and, as so modified, affirmed. Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur. Chief Judge Lippman took no part.

No. 23  
The People &c.,  
Respondent,  
v.  
Rickey J. Ryan,  
Appellant.

Order modified by remitting to Supreme Court, Monroe County, for further proceedings in accordance with the opinion herein, and, as so modified, affirmed. Opinion by Judge Ciparick. Judges Graffeo, Read, Smith, Pigott and Jones concur. Chief Judge Lippman took no part.

No. 18  
The People &c.,  
Respondent,  
v.  
Andrew C. Small,  
Appellant.

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

**MOTIONS**

Mo. No. 2008-1414  
Acme Supply Co., Ltd.,  
Appellant,  
v.  
City of New York,  
Respondent.

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

Mo. No. 2009-13  
The People &c.,  
Respondent,  
v.  
Rigoberto Benitez,  
Appellant.

Motion to dismiss the appeal herein  
granted and appeal dismissed, without  
prejudice to defendant making a motion  
to reinstate the appeal should he  
return to this Court's jurisdiction  
(see People v Diaz, 7 NY3d 831  
[2006]).  
Chief Judge Lippman took no part.

Mo. No. 2008-1415  
The People &c.,  
Respondent,  
v.  
Anthony Bowens,  
Appellant.

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

Mo. No. 2008-1404  
The People &c.,  
Respondent,  
v.  
Dale Branigan,  
Appellant.

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

Mo. No. 2009-12  
The People &c.,  
Respondent,  
v.  
Steven Callaghan,  
Appellant.

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

Mo. No. 2009-56  
In the Matter of Javen C.  
(Anonymous),  
Appellant.

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

Mo. No. 2008-1410  
The People &c. ex rel. Barret  
Chandler,  
Appellant,  
v.  
R.K. Woods, &c.,  
Respondent.

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

Mo. No. 2009-40  
In the Matter of William Coke,  
&c.,  
Appellant,  
v.  
Green Haven Correctional  
Facility, 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.  
Chief Judge Lippman took no part.

Mo. No. 2008-1395  
In the Matter of Garrett D.,  
Appellant,  
v.  
Kevin L.,  
Respondent.

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

Mo. No. 2008-1396  
In the Matter of Georgina  
Domingo,  
                    Appellant,  
            v.  
John Ferrell,  
                    Respondent.

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

Mo. No. 2008-1398  
Sierra Frank, &c.,  
                    Appellant,  
            v.  
William H. Eaton, et al.,  
                    Respondents.

Motion for leave to appeal dismissed  
as untimely (see CPLR 5513[b]).  
Chief Judge Lippman took no part.

Mo. No. 2009-2  
Lisa Freihofner,  
                    Respondent,  
            v.  
Gregory Freihofner,  
                    Appellant.

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

Mo. No. 2008-1394  
The People &c.,  
                    Respondent,  
            v.  
Jose Garcia,  
                    Appellant.

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

Mo. No. 2008-1369  
In the Matter of Thomas Gillen,  
&c.,  
                    Appellant,  
            v.  
Steven D. Conkling, &c.,  
                    Respondent.

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

Mo. No. 2009-3  
Allyson Gillies,  
Appellant,  
v.  
National Fire Insurance Company  
of Hartford,  
Respondent.

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

Mo. No. 2008-1406  
Shawn Green,  
Appellant,  
v.  
State of New York,  
Respondent.

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

Mo. No. 2009-51  
In the Matter of Town of Montauk,  
Appellant,  
v.  
George E. Pataki, etc., et al.,  
Respondents.

Motion for reargument denied.  
Chief Judge Lippman took no part.

Mo. No. 2009-34  
John Nelson,  
Respondent,  
v.  
Shaner Cable, Inc., &c.,  
Appellant.

Motion for leave to appeal dismissed  
upon the ground that the orders sought  
to be appealed from do not finally  
determine the action within the  
meaning of the Constitution.  
Chief Judge Lippman took no part.

Mo. No. 2008-1407  
Purchase Partners II, LLC,  
et al.,  
Appellants,  
v.  
Anthony E. Westreich,  
Respondent.  
(And a Third-Party Action.)

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

SSD 5  
In the Matter of Jose Rivera,  
Appellant,  
v.  
Lucien J. LeClaire, Jr., as  
Commissioner of Correctional  
Services, et al.,  
Respondents.

Appeal dismissed without costs, by the  
Court sua sponte, upon the ground that  
no appeal lies as of right from the  
unanimous order of the Appellate  
Division absent the direct involvement  
of a substantial constitutional  
question (see CPLR 5601).  
Chief Judge Lippman took no part.

Mo. No. 2008-1416  
Luis E. Rivera, Sr.,  
Respondent,  
v.  
Vincent Alaimo et al.,  
Appellants.

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

Mo. No. 2008-1411  
The People &c. ex rel. Charles D.  
Strauss,  
Appellant,  
v.  
New York State Division of  
Parole,  
Respondent.

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

Mo. No. 2009-35  
In the Matter of Kenneth A.  
Witkowich,  
Appellant,  
v.  
New York State Division of Human  
Rights and Alfred State College,  
Respondents.

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