

June 04, 2009

CASES

2 No. 89
In the Matter of Allstate
Insurance Company,
 Respondent,
 v.
Nydia Rivera, et al.,
 Appellants.

Order affirmed, with costs.
Opinion by Judge Jones.
Judges Graffeo, Read, Smith and Pigott
concur.
Judge Ciparick dissents and votes to
reverse in an opinion in which Chief
Judge Lippman concurs.

1 No. 98
Robert Callahan, et al.,
 Appellants,
 v.
Hugh L. Carey, &c., et al.,
 Defendants,
Edward I. Koch, &c., et al.,
 Respondents.

Order reversed, without costs, order of
Supreme Court, New York County,
reinstated and certified question
answered in the negative.
Opinion by Judge Read.
Judges Ciparick, Graffeo, Smith, Pigott
and Jones concur.
Chief Judge Lippman took no part.

Louise F. Eldredge, et al.,
 Appellants,
 v.
Edward I. Koch, &c., et al.,
 Respondents.

2 No. 90
In the Matter of Clarendon
National Insurance Company,
 Respondent,
 v.
Francisco Nunez, Sr., et al.,
 Appellants.

Order affirmed, with costs.
Opinion by Judge Jones.
Judges Graffeo, Read, Smith and Pigott
concur.
Judge Ciparick dissents and votes to
reverse in an opinion in which Chief
Judge Lippman concurs.

1 No. 88
Eurycleia Partners, LP, et al.,
 Appellants,
 v.
Seward & Kissel, LLP,
 Respondent,
et al.,
 Defendants.

Order, insofar as appealed from,
affirmed, with costs.
Opinion by Judge Graffeo.
Judges Ciparick, Read, Smith, Pigott
and Jones concur.
Chief Judge Lippman took no part.

1 No. 85
Matter of GRA V, LLC, et al.,
 Appellants,
 v.
Meenakshi Srinivasan, et al.,
 Respondents.

Order reversed, with costs, and matter
remitted to Supreme Court, Bronx
County, with directions to remand to
respondent Board of Standards and
Appeals of the City of New York for
further proceedings in accordance with
the memorandum herein.
Chief Judge Lippman and Judges
Ciparick, Graffeo, Read, Smith, Pigott
and Jones concur.

1 No. 146 SSM 13
Christopher Hotaling et al.,
 Appellants,
 v.
The City of New York et al.,
 Respondents.

On review of submissions pursuant to
section 500.11 of the Rules, order
affirmed, with costs, and certified
question not answered as unnecessary,
in a memorandum.
Judges Ciparick, Graffeo, Read, Smith,
Pigott and Jones concur.
Chief Judge Lippman took no part.

No. 82

Lee N. Koehler,
Appellant,
v.
The Bank of Bermuda Limited,
Respondent.

Following certification of a question by the United States Court of Appeals for the Second Circuit and acceptance of the question 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 question answered in the affirmative. Opinion by Judge Pigott. Chief Judge Lippman and Judges Ciparick and Graffeo concur. Judge Smith dissents and votes to answer the certified question in the negative in an opinion in which Judges Read and Jones concur.

2 No. 93
Frieda Sargiss,
Appellant,
v.
Marlene Magarelli, &c., et al.,
Respondents,
et al.,
Defendants.

Order modified, without costs, by remitting to Supreme Court, Westchester County, for further proceedings in accordance with the opinion herein and, as so modified, affirmed. Opinion by Chief Judge Lippman. Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

MOTIONS

2 Mo. No. 2009-380
In the Matter of Allstate
Properties, LLC,
 Appellant,

v.

Board of Zoning Appeals of the
Village of Hempstead,
 Respondent.

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

1 Mo. No. 2009-424
In the Matter of Anthony Altieri,
 Appellant,

v.

City of New York Civil Service
Commission, et al.,
 Respondents.

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

1 Mo. No. 2009-415
Timothy Anderson et al.,
 Appellants,
 v.
New York City Housing Authority,
 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.

4 Mo. No. 2009-409
The People &c.,
 Respondent,
 v.
Michael Paul Belanger,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2009-410
In the Matter of Stephanie
Bradford,
 Appellant,

v.

New York City Department of
Correction,
 Respondent.

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

1 Mo. No. 2009-446
In the Matter of The Bridge and
Tunnel Officers Benevolent
Association,
 Appellant,
 v.
The Triborough Bridge and Tunnel
Authority,
 Respondent.

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

4 Mo. No. 2009-599
The People &c.,
 Respondent,
 v.
Homer Brown, Jr.,
 Appellant.

Motion for assignment of counsel
granted and Timothy P. Donaher, Esq.,
Monroe County Public Defender, 10 N.
Fitzhugh Street, Rochester, NY 14614
assigned as counsel to the appellant
on the appeal herein.

1 Mo. No. 2009-433
Doug Copp, et al.,
 Appellants,
 v.
Rayner Ramirez, et al.,
 Respondents,
et al.,
 Defendants.

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

4 Mo. No. 2009-430
The People &c.,
 Respondent,
 v.
John Cullen,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2009-388
In the Matter of Mary Ann Delano,
 Appellant,
 v.
Joseph L. Desimone,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2009-597
Petition to Vacate an Adoption
Decree, in the Adoption of John
Doe,
 Adoptee.

Motion by James Ching, Esq. for leave
to appear amicus curiae on the appeal
herein denied.

L.M.B., Respondent,
 v.
E.R.J. Appellant.

4 Mo. No. 2009-516
The People &c.,
 Respondent,
 v.
Michael Edwards,
 Appellant.

Motion for assignment of counsel
granted and Timothy P. Donaher, Esq.,
Monroe County Public Defender, 10 N.
Fitzhugh Street, Rochester, NY 14614
assigned as counsel to the appellant
on the appeal herein.

2 Mo. No. 2009-384
In the Matter of Harrison Joseph
Edwards III,
 Respondent,
 v.
Leslie Sage Rothschild,
 Respondent.
Attorney for Children,
 Appellant.
(And Another Proceeding.)

Motion for leave to appeal denied.

2 Mo. No. 2009-429
The People &c.,
 Respondent,
 v.
Thomas English,
 Appellant.

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

1 Mo. No. 2009-405
Dorothy E. Gastman,
 Appellant,
 v.
Department of Education of The
City of New York,
 Respondent.

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

3 Mo. No. 2009-396
In the Matter of Sherman Green,
 Appellant,
 v.
Kimber Manufacturing, Inc.,
 Respondent,
Workers' Compensation Board,
 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.

4 Mo. No. 2009-447
In the Matter of Edward W.
Guzdek, Jr., &c., et al.,
 Respondents,
 v.
Satish Mohan, Supervisor, Town of
Amherst,
 Appellant,
Town of Amherst,
 Respondent,
et al.,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2009-379
In the Matter of Heath C. Hughes,
 Appellant,
 v.
Alan G. Hevesi, &c., et al.,
 Respondents.

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

3 Mo. No. 2009-434
In the Matter of John D. Justice,
 Appellant,
 v.
George B. Alexander, &c.,
 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.

2 Mo. No. 2009-462
In the Matter of Danielle Joy K.
(Anonymous).

Administration for Children's
Services, et al.,
 Respondents;
Stacy K. (Anonymous),
 Appellant.

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.

1 Mo. No. 2009-392
In the Matter of Desmond K.
et al. &c.

Kevin K.,
 Appellant,
Cardinal McCloskey Services,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2009-500
The People &c.,
 Respondent,
 v.
Craig Lewis,
 Appellant.

Motion for assignment of counsel granted and Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, NY 10006 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2009-445
The People &c. ex rel. Daniel
Matos,
 Appellant,
 v.
Warden, Rikers Island
Correctional Facility, et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2009-475
The People &c.,
 Respondent,
 v.
Angel Mendez,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2009-386
In the Matter of Richard J.
Miller Jr.,
 Appellant,
 v.
New York State Department of
Transportation et al.,
 Respondents.

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

1 Mo. No. 2009-587
The People &c.,
 Respondent,
 v.
Larry Mynin,
 Appellant.

Motion for assignment of counsel
granted and Richard M. Greenberg,
Esq., Office of the Appellate
Defender, 11 Park Place, Suite 1601,
New York, NY 10007 assigned as counsel
to the appellant on the appeal herein.

3 Mo. No. 2009-477
In the Matter of Liam Neville,
 Appellant,
 v.
Magazine Distributors, Inc.,
et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

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

2 Mo. No. 2009-395
In the Matter of 110-15 71st Road
Associates, LLC,
 Respondent,
 v.
Division of Housing and Community
Renewal,
 Appellant.

Motion for leave to appeal denied.

 Mo. No. 2009-620
In the Matter of Faith Ann
Peaslee, et al.

George M. Reiber,
 Appellant,
 v.
GMAC, LLC, Ford Motor Credit
Company, General Motors
Acceptance Corporation, Sovereign
Bank, HSBC Auto Finance,
 Respondents.

Motion by Ingrid M. Hillinger, et al.
for leave to file a brief amici curiae
on consideration of the certified
question herein granted and the
proposed brief is accepted as filed.

2 Mo. No. 2009-371
Joffre Pesantes,
 Appellant,
 v.
Komatsu Forklift USA, Inc.,
 Respondent,
et al.,
 Defendant.
(And Third-Party Actions.)

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

1 Mo. No. 2009-471
Anna Pezhman,
 Appellant,
 v.
The City of New York, et al.,
 Respondents.

Motion for reargument of motion for
leave to appeal denied.

1 Mo. No. 2009-413
Ana Reyes,
 Appellant,
 v.
Andres Brito,
 Respondent.

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

3 Mo. No. 2009-353
Richard A. Hutchens CC, L.L.C.,
 Appellant,
 v.
State of New York, et al.,
 Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2009-443
The People &c.,
 Respondent,
 v.
James Schlau,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2009-400
In the Matter of Social Service
Employees Union, Local 371 on
behalf of its member Matthew
Opuoru,
 Appellant,
 v.
City of New York Administration
for Children's Services,
 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.

2 Mo. No. 2009-403
In the Matter of John A. Tabacco,
 Respondent,
 v.
John W. Vitucci,
 Respondent,
The Board of Elections in the
City of New York,
 Appellant.

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

1 Mo. No. 2009-411
In the Matter of Terrace
HealthCare Center, Inc.,
 Appellant,
 v.
Antonia C. Novello, M.D., &c.,
et al.,
 Respondents.

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

1 Mo. No. 2009-407
Volt Management Corp., &c.,
 Appellant,
 v.
The City of New York, et al.,
 Respondents.

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

3 Mo. No. 2009-401
In the Matter of Mary Kate VV.
et al., &c.

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

Ulster County Department of
Social Services,
 Respondent;
Dennis VV.,
 Appellant.

3 Mo. No. 2009-397
In the Matter of Robin J.
Yarinsky,
 Appellant,
 v.
Steven Yarinsky,
 Respondent.

Motion for leave to appeal denied.