

June 30, 2009

**CASES**

4                   No. 173   SSM 17  
In the Matter of Thomas Anderson,  
et al.,  
                  Appellants,  
                  v.  
Town of Chili Planning Board and  
Metalico Rochester, Inc.,  
                  Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, respondent Planning Board's determinations issuing a conditional use permit and a negative declaration annulled and matter remitted to Supreme Court, Monroe County, with directions to remand to the Planning Board for further proceedings for the reasons stated in the dissenting memorandum at the Appellate Division (59 AD3d 1017, 1019-1020 [2009]).  
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

4                   No. 101  
The People &c.,  
                  Respondent,  
                  v.  
Ingvue E. Buchanan,  
                  Appellant.

Order reversed and a new trial ordered. Opinion Per Curiam.  
Chief Judge Lippman and Judges Ciparick, Graffeo, Smith, Pigott and Jones concur.  
Judge Read dissents and votes to affirm in an opinion.

4                   No. 118  
Buffalo Crushed Stone Inc.,  
                  Appellant,  
                  v.  
Town of Cheektowaga,  
                  Respondent.

Order modified, without costs, in accordance with the opinion herein and, as so modified, affirmed.  
Opinion by Judge Ciparick.  
Judges Read, Smith, Pigott and Jones concur.  
Chief Judge Lippman dissents in part in an opinion in which Judge Graffeo concurs.

3                   No. 116  
Rachael J. Butler, an infant, by  
her Parent and Guardian, Mary J.  
Butler, et al.,  
                  Appellants,  
          v.  
City of Gloversville, et al.,  
                  Defendants,  
Gloversville Enlarged School  
District, et al.,  
                  Respondents.

Order reversed, with costs, and  
complaint reinstated against all  
defendants, in a memorandum.  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read, Smith, Pigott  
and Jones concur.

1                   No. 115  
The People of the State of New  
York by Andrew M. Cuomo, Attorney  
General of the State of New York,  
                  Respondent,  
          v.  
Coventry First LLC, et al.,  
                  Appellants.

Order affirmed, with costs, and  
certified question answered in the  
affirmative.  
Opinion by Judge Pigott.  
Judges Ciparick, Graffeo, Read, Smith  
and Jones concur.  
Chief Judge Lippman took no part.

1                   No. 119  
The People &c.,  
                  Appellant,  
          v.  
Victor Gomez,  
                  Respondent.

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

**MOTIONS**

2                   Mo. No. 2009-598  
Katharine Allison,  
                  Appellant,  
                  v.  
William B. Allison,  
                  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. Motion for poor person relief dismissed as academic.

1                   Mo. No. 2009-586  
Natalia Anikushina,  
                  Respondent,  
                  v.  
Courtney D. Moodie,  
                  Defendant,  
Consolidated Delivery Logistics,  
Inc., 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. Chief Judge Lippman took no part.

3                   Mo. No. 2009-596  
In the Matter of Martin Banks,  
                  Appellant,  
                  v.  
Robert Dennison, &c., et al.,  
                  Respondents.

Motion for leave to appeal dismissed as untimely (see CPLR 5513[b]; Eaton v State of New York, 76 NY2d 824 [1990]).

                  SSD 37  
In the Matter of Lee Bordeleau,  
et al.,  
                  Appellants,  
                  v.  
The State of New York, et al.,  
                  Respondents.

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, Third 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]).

2                   Mo. No. 2009-650  
The People &c.,  
                    Respondent-Appellant,  
                    v.  
Julio Borrell, Also Known as  
Julio Cesar Borrell,  
                    Appellant-Respondent.

Motion for reargument denied.

1                   Mo. No. 2009-628  
Bridge Capital Corp., et al.,  
                    Respondents,  
                    v.  
Todd E. Ernst, et al.,  
                    Defendants,  
Sigurd A. Sorenson,  
                    Appellant.  
(And a Third-Party Action.)

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

1                   Mo. No. 2009-629  
Bridge Capital Corp., et al.,  
                    Respondents,  
                    v.  
Todd E. Ernst, et al.,  
                    Defendants,  
Sigurd A. Sorenson,  
                    Appellant.  
(And a Third-Party Action.)

Motion for a stay dismissed as  
academic.

1                   Mo. No. 2009-562  
The People &c.,  
                    Respondent,  
                    v.  
David Carter,  
                    Appellant.

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

4                   Mo. No. 2009-569  
The People &c.,  
                    Respondent,  
                    v.  
Rollie V. Collins,  
                    Appellant.

Motion for leave to appeal denied.

2                   Mo. No. 2009-565  
Colette Cronin, &c.,  
                  Appellant,  
                  v.  
Jamaica Hospital Medical Center,  
                  Respondent.

Motion for leave to appeal granted.

4                   Mo. No. 2009-625  
In the Matter of Davontae D.  
et al.,  
  
Monroe County Department of Human  
Services,  
                  Appellant;  
Celia D.,  
                  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.

1                   Mo. No. 2009-571  
In the Matter of Daniel D.  
et al., &c.  
  
John D.,  
                  Appellant,  
Commissioner of the  
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.

4                   Mo. No. 2009-584  
The People &c. ex rel. Kawaski  
Dickerson,  
                  Appellant,  
                  v.  
David Unger, &c.,  
                  Respondent.

Motion for leave to appeal denied.

3                    Mo. No. 2009-523  
In the Matter of Felix F. Donkor,  
                          Appellant.  
Commissioner of Labor,  
                          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. 2009-644  
In the Matter of Meredith S.F.  
  
Allegany County Department of  
Social Services,  
                          Respondent;  
Raymond F.,  
                          Appellant.

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

3                    Mo. No. 2009-652  
In the Matter of Shawn Green,  
                          Appellant,  
                          v.  
Donald Selsky, &c., et al.,  
                          Respondents.

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

2                    Mo. No. 2009-649  
In the Matter of Chyanne H.  
(Anonymous).

Motion for leave to appeal denied.

Orange County Department of  
Social Services,  
                          Respondent;  
Mae N. (Anonymous),  
                          Respondent,  
Gerald H. (Anonymous),  
                          Appellant.  
(And Two Other Proceedings.)

1                   Mo. No. 2009-694  
IDT Corp. et al.,  
                  Appellants,  
                  v.  
Tyco Group, S.A.R.L., et al.,  
                  Respondents.

Motion to strike portions of  
appellants' reply brief denied.  
Chief Judge Lippman took no part.

2                   Mo. No. 2009-517  
Michael Jean,  
                  Appellant,  
                  v.  
Christina Vilar Jean,  
                  Respondent.

Motion for leave to appeal dismissed  
upon the ground that the order sought  
to be appealed from, affirming an  
order which denied a motion to amend a  
prior final determination, does not  
finally determine the action within  
the meaning of the Constitution (see  
Karger, Powers of the New York Court  
of Appeals § 4:16, at 96 [3d ed rev]).

3                   SSD 35  
In the Matter of John D. Justice,  
                  Appellant,  
                  v.  
Michael Hogan, as Commissioner of  
New York State Office of Mental  
Health,  
                  Respondent.

Appeal dismissed without costs, by the  
Court sua sponte, upon the ground that  
the order appealed from does not  
finally determine the proceeding  
within the meaning of the  
Constitution.

4                   Mo. No. 2009-606  
In the Matter of John D. Justice,  
                  Appellant,  
                  v.  
Michael E. Hudson, Judge of the  
New York State Court of Claims,  
and the State of New York,  
                  Respondents.

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

4                   Mo. No. 2009-503  
In the Matter of John D. Justice,  
                  Appellant,  
                  v.  
Terry King, Executive Director of  
Saving Grace Ministries, Inc.,  
                  Respondent.

On the Court's own motion, appeal dismissed, without costs, 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 (CPLR 5601). Motion for poor person relief dismissed as academic.

4                   Mo. No. 2009-661  
In the Matter of Giovanni K. et  
al.

Motion for leave to appeal denied.

Oneida County Department of  
Social Services,  
                  Respondent;  
Dawn K.,  
                  Appellant.

1                   Mo. No. 2009-570  
Rebecca King Kaplan, &c.,  
                  Appellant,  
                  v.  
Robin B. Karpfen, M.D., et al.,  
                  Respondents.

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

2                   Mo. No. 2009-505  
In the Matter of Amir J.-L.  
(Anonymous).

Administration for Children's  
Services,  
                  Respondent;  
Phillip J.-L. (Anonymous),  
                  Appellant.

Motion, insofar as it seeks leave to appeal as against the Administration for Children's Services, dismissed as untimely (see CPLR 5513[b]); motion, insofar as it seeks leave to appeal as against the Law Guardian, dismissed for failure to demonstrate timeliness as required by Rules of the Court of Appeals (22 NYCRR) § 500.22(b)(2). Motion for poor person relief dismissed as academic.

1                   Mo. No. 2009-646  
In the Matter of Bruce L.,  
                  Respondent,  
                  v.  
Patricia C.,  
                  Appellant.

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

2                   Mo. No. 2009-593  
In the Matter of Ryan L.  
(Anonymous).

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

Orange County Department of  
Social Services,  
                  Respondent;  
Debbie L.-T. (Anonymous),  
                  Appellant.  
(And Another Proceeding.)

2                   Mo. No. 2009-574  
Viktoriya Lischinskaya,  
                  Appellant,  
                  v.  
Carnival Corporation, &c.,  
                  Respondent,  
et al.,  
                  Defendants.

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

2                   Mo. No. 2009-502  
The People &c.,  
                  Respondent,  
                  v.  
Richard Maldonado,  
                  Appellant.

On the Court's own motion, appeal  
dismissed, without costs, upon the  
ground that no civil appeal lies from  
an Appellate Division order entered in  
a criminal proceeding (see NY Const,  
art VI, § 3[b]; CPLR 5601; CPL  
450.90).  
Motion for poor person relief  
dismissed as academic.

2                   Mo. No. 2009-568  
In the Matter of Imani M.  
(Anonymous).

Dutchess County Department of  
Social Services,  
                  Respondent;  
Derrick J. (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.  
Motion for poor person relief  
dismissed as academic.

1                   Mo. No. 2009-1  
In the Matter of Edward A. Maron,  
et al.,

                  Appellants,  
                  v.  
Sheldon Silver, &c., et al.,  
                  Respondents,  
et al.,  
                  Respondent.

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

2                   Mo. No. 2009-582  
Michael Mitaras,  
                  Appellant,

                  v.  
Pickman Realty Corp., et al.,  
                  Respondents.  
(And a Third-Party Action.)

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

3                   SSD 40  
The People &c.,  
                  Respondent,  
                  v.  
Eugene A. Mullins,  
                  Appellant.

Appeal dismissed without costs, by the  
Court sua sponte, upon the ground that  
no civil appeal lies from the order of  
the Appellate Division entered in this  
criminal proceeding (see NY Const, art  
VI, § 3[b]; CPLR 5601; CPL 450.90).

2                   SSD 41  
In the Matter of Mayank V.  
Munsiff, a suspended attorney.

Grievance Committee for the  
Second and Eleventh Judicial  
Districts,

                          Petitioner,  
Mayank V. Munsiff,  
                          Appellant.

1                   Mo. No. 2009-581  
In the Matter of National Bulk  
Carriers, Inc. and Affiliates,  
                          Appellant,

                          v.  
New York City Tax Appeals  
Tribunal, et al.,  
                          Respondents.

2                   Mo. No. 2009-573  
In the Matter of Oyster Bay  
Associates Limited Partnership,  
et al.,

                          Appellants,  
                          v.  
Town Board of Town of Oyster Bay,  
et al.,  
                          Respondents,  
Birchwood Civic Association at  
Jericho, Inc., et al.,  
                          Intervenors-Respondents.

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

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

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

2                   Mo. No. 2009-602  
In the Matter of Oyster Bay  
Associates Limited Partnership,  
et al.,  
                  Appellants,  
                  v.  
Town Board of Town of Oyster Bay,  
et al.,  
                  Respondents,  
Birchwood Civic Association at  
Jericho, Inc., et al.,  
                  Intervenors-Respondents.

Motion by Long Island Association for  
leave to file a brief amicus curiae on  
the motion for leave to appeal herein  
granted and the brief is accepted as  
filed.

2                   Mo. No. 2009-577  
Paul Palmieri,  
                  Respondent,  
                  v.  
Town of Babylon,  
                  Appellant.

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.

3                   Mo. No. 2009-622  
In the Matter of Abdullah Y.  
Salahuddin,  
                  Appellant,  
                  v.  
Donald Selsky, as Director of  
Special Housing/Inmate  
Disciplinary Programs,  
                  Respondent.

Motion for reargument of motion for  
leave to appeal denied.

2                   Mo. No. 2009-544  
Estate of Saul Schneider,  
                  Appellant,  
                  v.  
Victor M. Finmann, et al.,  
                  Respondents,  
et al.,  
                  Defendant.

Motion for leave to appeal granted.

2                    Mo. No. 2009-564  
The People &c.,  
                    Respondent,  
                    v.  
Christopher Shea,  
                    Appellant.

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

4                    Mo. No. 2009-609  
In the Matter of Montgomery Blair  
Sibley, an Attorney,  
                    Appellant.

Motion for reconsideration of this  
Court's May 12, 2009 dismissal order  
denied.

Grievance Committee of the  
Seventh Judicial District,  
                    Respondent.

4                    SSD 36  
Louis E. Thyroff et al.,  
                    Appellants,  
                    v.  
Nationwide Mutual Insurance  
Company, et al.,  
                    Respondents.

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

1                    Mo. No. 2009-566  
Ana Velazquez,  
                    Appellant,  
                    v.  
St. Barnabas Hospital,  
                    Respondent.

Motion for leave to appeal granted.

2                    SSD 39  
Wen-Yu Zhou Wahab,  
                    Respondent,  
                    v.  
Chassib Kassim Wahab,  
                    Appellant.

Appeal dismissed without costs, by the  
Court sua sponte, upon the ground that  
it does not lie (see NY Const, art VI,  
§ 3[b]; CPLR 5601).