

February 18, 2010

CASES

1 No. 88 SSM 4

David Belding,
 Respondent,

v.

Verizon New York, Inc., Northern
Bay Contractors, Inc. and Tishman
Interiors Corporation,
 Appellants.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative, in a memorandum.
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

4 No. 28

The People &c.,
 Respondent,

v.

Homer Brown, Jr.,
 Appellant.

Order reversed and case remitted to County Court, Monroe County, for further proceedings in accordance with the opinion herein.
Opinion by Chief Judge Lippman.
Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

4 No. 26

Glacial Aggregates LLC,
 Appellant,

v.

Town of Yorkshire,
 Respondent.

Order reversed, with costs, and case remitted to the Appellate Division, Fourth Department, for consideration of issues raised but not determined on the appeal to that court.
Opinion by Judge Read.
Chief Judge Lippman and Judges Ciparick, Graffeo, Smith, Pigott and Jones concur.

2 No. 25

The People &c.,
 Respondent,

v.

Tatyana Kisina,
 Appellant.

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

4 No. 3
In the Matter of Lighthouse
Pointe Property Associates LLC,
 Appellant,
 v.
New York State Department of
Environmental Conservation, et
al.,
 Respondents.

Order reversed, with costs, and
judgment of Supreme Court, Monroe
County, reinstated. Certified question
not answered upon the ground that it is
unnecessary.
Opinion by Judge Read.
Chief Judge Lippman and Judges
Ciparick, Graffeo, Smith, Pigott and
Jones concur.

2 No. 4
In the Matter of New York City
Transit Authority,
 Respondent,
 v.
Transport Workers Union of
America, Local 100, et al.,
 Appellants.

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

1 No. 86 SSM 53
The People &c.,
 Respondent,
 v.
Juan Rivera,
 Appellant.

On review of submissions pursuant to
section 500.11 of the Rules, order
affirmed, in a memorandum.
Chief Judge Lippman and Judges
Ciparick, Graffeo, Read, Smith, Pigott
and Jones concur.

1 No. 24
David Wadler,
 Appellant,
 v.
The City of New York et al.,
 Respondents.

Order affirmed, with costs.
Opinion by Judge Smith.
Judges Ciparick, Graffeo, Read and
Pigott concur.
Judge Jones dissents and votes to
reverse in an opinion.
Chief Judge Lippman took no part.

MOTIONS

4 Mo. No. 2009-1341 Motion for leave to appeal denied.
The People &c. ex rel. Raymond
Almodovar,
 Appellant,
 v.
James L. Berbary, &c.,
 Respondent.

3 Mo. No. 2009-1335 Motion for leave to appeal denied with
In the Matter of Baldwin Research one hundred dollars costs and
Institute, Inc., necessary reproduction disbursements.
 Respondent,
 v.
Board of Assessment Review of the
Town of Amsterdam, et al.,
 Appellants.

2 Mo. No. 2009-1353 Motion for leave to appeal denied.
In the Matter of Brittany C.
(Anonymous).

Suffolk County Department of
Social Services,
 Respondent;
Linda C. (Anonymous),
 Appellant.
(And Two Other Proceedings.)

1 Mo. No. 2009-1395 Motion for leave to appeal dismissed
In the Matter of Ciara Lee C., upon the ground that the order sought
&c. to be appealed from does not finally

Lourdes R., determine the proceeding within the
 Appellant, meaning of the Constitution.
Episcopal Social Services,
et al.,
 Respondents.

4 Mo. No. 2010-172
Cayuga Indian Nation of New York,
Respondent,
v.
Cayuga County Sheriff David S.
Gould and Seneca County Sheriff
Jack S. Stenberg,
Appellants,
et al.,
Defendants.

Motion by District Attorneys
Association of the State of New York
for leave to appear amicus curiae on
the appeal herein granted only to the
extent that the proposed brief is
accepted as filed. Two copies of the
brief must be served and 24 copies
filed within seven days.

4 Mo. No. 2010-194
Cayuga Indian Nation of New York,
Respondent,
v.
Cayuga County Sheriff David S.
Gould and Seneca County Sheriff
Jack S. Stenberg,
Appellants,
et al.,
Defendants.

Motion by Seneca Nation of Indians for
leave to file a brief amicus curiae on
the appeal herein granted and the
proposed brief is accepted as filed.
Two copies of the brief must be served
and 24 copies filed within seven days.

4 Mo. No. 2010-206
Cayuga Indian Nation of New York,
Respondent,
v.
Cayuga County Sheriff David S.
Gould and Seneca County Sheriff
Jack S. Stenberg,
Appellants,
et al.,
Defendants.

Motion by Day Wholesale, Inc. for
leave to file a brief amicus curiae on
the appeal herein denied.

4 Mo. No. 2010-230
Cayuga Indian Nation of New York,
Respondent,
v.
Cayuga County Sheriff David S.
Gould and Seneca County Sheriff
Jack S. Stenberg,
Appellants,
et al.,
Defendants.

Motion by New York State Association
of Counties et al. for leave to file a
brief amici curiae on the appeal
herein granted and the proposed brief
is accepted as filed. Two copies of
the brief must be served and 24 copies
filed within seven days.

4 Mo. No. 2010-232
Cayuga Indian Nation of New York,
 Respondent,
 v.
Cayuga County Sheriff David S.
Gould and Seneca County Sheriff
Jack S. Stenberg,
 Appellants,
et al.,
 Defendants.

Motion by American Cancer Society,
Eastern Division Inc. for leave to
file a brief amicus curiae on the
appeal herein granted and the proposed
brief is accepted as filed. Two
copies of the brief must be served and
24 copies filed within seven days.

4 Mo. No. 2010-233
Cayuga Indian Nation of New York,
 Respondent,
 v.
Cayuga County Sheriff David S.
Gould and Seneca County Sheriff
Jack S. Stenberg,
 Appellants,
et al.,
 Defendants.

Motion by The City of New York for
leave to appear amicus curiae on the
appeal herein granted only to the
extent that the proposed brief is
accepted as filed. Two copies of the
brief must be served and 24 copies
filed within seven days.

2 Mo. No. 2009-1384
Man Choi Chiu, et al.,
 Respondents,
 v.
Winston Chiu, &c., et al.,
 Appellants.

Motion for leave to appeal denied.

1 Mo. No. 2009-1321
Ava, also known as Maximilia
Cordero,
 Appellant,
 v.
NYP Holdings, Inc. &c., et al.,
 Respondents,
News Corporation, &c., et al.,
 Defendants.

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

3 Mo. No. 2010-79
In the Matter of Gabriel D., &c.

Broome County Department of
Social Services,

Respondent;

Andrea D.,

Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2009-1387
In the Matter of Deborah Davis,
Appellant.
Commissioner of Labor,
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2009-1209
In the Matter of Destiny USA
Development, LLC and Pyramid
Company of Onondaga,
Respondents,

v.

New York State Department of
Environmental Conservation
et al.,

Appellants.

Motion for leave to appeal denied.

4 Mo. No. 2009-1398
Robert Dineen,
Appellant,

v.

Daniel Rechichi et al.,
Respondents,

et al.,

Defendants.

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

2 Mo. No. 2010-22
In the Matter of Suzanne Dwyer-
Hayde,

Respondent,

v.

Roger Forcier,

Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2010-14
In the Matter of Gerster Sales &
Service, Inc., et al.,
 Appellants,
 v.
Power Authority of State of New
York, et al.,
 Respondents.

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

2 Mo. No. 2009-1379
In the Matter of Daniel
Goldstein, et al.,
 Appellants,
 v.
New York State Urban Development
Corporation, d/b/a Empire State
Development Corporation,
 Respondent.

Motion for reargument &c. denied with
one hundred dollars costs and
necessary reproduction disbursements.

1 Mo. No. 2009-1307
Alan M. Goldston, &c.,
 Respondent,
 v.
Bandwidth Technology Corp.
et al.,
 Appellants.

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

4 Mo. No. 2010-173
The People &c.,
 Respondent,
 v.
Tara Gravino,
 Appellant.

Motion by District Attorneys
Association of the State of New York
for leave to appear amicus curiae on
the appeal herein granted only to the
extent that the proposed brief is
accepted as filed. Two copies of the
brief must be served and 24 copies
filed within seven days.

1 Mo. No. 2010-5
Ralph Hall,
 Appellant,
 v.
Jacoby and Meyers Law Offices,
Inc.,
 Respondent.

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

3 Mo. No. 2010-189
Kimberly Hurrell-Harring, et al.,
 Appellants,
 v.
The State of New York et al.,
 Respondents.

Motion by National Association of Criminal Defense Lawyers et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed.

3 Mo. No. 2010-195
Kimberly Hurrell-Harring, et al.,
 Appellants,
 v.
The State of New York et al.,
 Respondents.

Motion by The Fund for Modern Courts for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served and 24 copies filed within seven days.

3 Mo. No. 2010-199
Kimberly Hurrell-Harring, et al.,
 Appellants,
 v.
The State of New York et al.,
 Respondents.

Motion by Michael A. Battle et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed.

3 Mo. No. 2010-201
Kimberly Hurrell-Harring, et al.,
 Appellants,
 v.
The State of New York et al.,
 Respondents.

Motion by Legal Aid Society for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed.

3 Mo. No. 2010-202
Kimberly Hurrell-Harring, et al.,
 Appellants,
 v.
The State of New York et al.,
 Respondents.

Motion by New York State Defenders Association for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served and 24 copies filed within seven days.

3 Mo. No. 2010-204
Kimberly Hurrell-Harring, et al.,
 Appellants,
 v.
The State of New York et al.,
 Respondents.

Motion by Innocence Project for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Two copies of the brief must be served and 24 copies filed within seven days.

3 Mo. No. 2009-1351
Joseph E. Kaufman, &c.,
et al.,
 Appellants,
 v.
Quickway, Inc., et al.,
 Respondents.

Motion for leave to appeal granted.

2 Mo. No. 2010-6
Richard Kemp,
 Appellant,
 v.
County of Suffolk et al.,
 Respondents.

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

2 Mo. No. 2009-1380
The People &c.,
 Respondent,
 v.
Thomas Kraus,
 Appellant.

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

1 Mo. No. 2010-147
The People &c.,
 Respondent,
 v.
Steven Mason,
 Appellant.

Motion for leave to appeal 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.

3 Mo. No. 2010-9
In the Matter of James W.
McDonald III,
 Respondent,
 v.
Jhenna A. Reed, &c.,
 Appellant.

Motion for leave to appeal dismissed
upon the ground that appellant is not
a party aggrieved (see CPLR 5511).

1 Mo. No. 2010-142
The People &c.,
 Respondent,
 v.
Omar Montes,
 Appellant.

Motion for assignment of counsel
granted and Steven Banks, Esq., The
Legal Aid Society, 199 Water Street,
New York, NY 10038 assigned as counsel
to the appellant on the appeal herein.

2 Mo. No. 2009-1348
In the Matter of Dexter Murray,
 Appellant,
 v.
Michael Pesce, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2010-231
The City of New York, et al.
 Plaintiffs,
 v.
Thomas A. Maul, &c.,
 Defendant.

L.J., et al.,
 Intervenors-Respondents,
 v.
John B. Mattingly, in his
official capacity as
Commissioner, New York City
Administration for Childrens'
Services,
 Appellant,
Thomas A. Maul, &c.,
 Defendant.

Motion by New York State Association
of Counties for leave to file a brief
amicus curiae on the appeal herein
granted and the proposed brief is
accepted as filed. Two copies of the
brief must be served and 24 copies
filed within seven days.

3 Mo. No. 2009-1361
In the Matter of Vinod Patel,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2009-1319
The People &c.,
 Respondent,
 v.
Arthur E. Pearsall,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2010-10
The People &c.,
 Respondent,
 v.
Rasheem Salley,
 Appellant.

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

2 Mo. No. 2009-1354
Joseph P. Shelley, Jr., et al.,
 Appellants,
 v.
Sheryn Silvestre, &c., et al.,
 Respondents.

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

2 Mo. No. 2009-1383
Glen L. Spiritis,
 Respondent,
 v.
Village of Hempstead Community
Development Agency,
 Appellant.

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

2 Mo. No. 2009-1292
In the Matter of Horace Taylor,
 Respondent,
 v.
Marcia Taylor,
 Appellant.

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

4 Mo. No. 2009-1367
Darrell Wesseldine,
 Appellant,
 v.
County of Oneida,
 Respondent.

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

 Mo. No. 2010-207
Dominika Zakrzewska,
 Respondent,
 v.
The New School,
 Appellant,
Kwang-Wen Pan,
 Defendant.

Motion by National Employment Lawyers
Association/New York Chapter et al.
for leave to appear amici curiae on
consideration of the certified
question herein granted only to the
extent that the proposed brief is
accepted as filed. Two copies of the
brief must be served and 24 copies
filed within seven days.

Mo. No. 2010-229

Dominika Zakrzewska,
Respondent,
v.
The New School,
Appellant,
Kwang-Wen Pan,
Defendant.

Motion by Memorial Sloan-Kettering Cancer Center 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. Two copies of the brief must be served and 24 copies filed within seven days.