

October 19, 2010

CASES

4 No. 159
The People &c.,
 Respondent,
 v.
Dana R. Bradford,
 Appellant.

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

1 No. 150
In the Matter of Oscar Cintron,
 Appellant,
 v.
Judith A. Calogero, as
Commissioner of the Division of
Housing and Community Renewal of
the State of New York,
 Respondent.

Order reversed, with costs, and case
remitted to Supreme Court, Bronx
County, with directions to remand to
respondent for further proceedings in
accordance with the opinion herein.
Certified question not answered upon
the ground that it is unnecessary.
Opinion by Judge Ciparick.
Chief Judge Lippman and Judges Graffeo,
Read, Pigott and Jones concur.
Judge Smith dissents and votes to
affirm in an opinion.

1 No. 171
In the Matter of Sylvie Grimm,
 Respondent,
 v.
State of New York Division of
Housing and Community Renewal
Office of Rent Administration,
 Appellant,
151 Owners Corp.,
 Intervenor-Appellant.

Order affirmed, with costs, and
certified question answered in the
affirmative.
Opinion by Judge Ciparick.
Chief Judge Lippman and Judges Pigott
and Jones concur.
Judge Smith dissents in an opinion in
which Judges Graffeo and Read concur.

3 No. 147
In the Matter of New York Charter
School Association et al.,
 Respondents,
 v.
M. Patricia Smith, as
Commissioner of Labor,
 Appellant.

In the Matter of Foundation for a
Greater Opportunity et al.,
 Respondents,
 v.
M. Patricia Smith, as
Commissioner of Labor et al.,
 Appellants.

1 No. 227 SSM 46
The People &c.,
 Appellant,
 v.
Carlos Reyes,
 Respondent.

1 No. 155
James Sykes et al.,
 Appellants,
 v.
RFD Third Avenue 1 Associates,
LLC, et al.,
 Defendants,
Cosentini Associates, LLP,
 Respondent.

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

On review of submissions pursuant to
section 500.11 of the Rules, appeal
dismissed upon the ground that the
reversal by the Appellate Division was
not "on the law alone or upon the law
and such facts which, but for the
determination of law, would not have
led to reversal" (CPL 450.90[2][a]; see
People v Howard, 74 NY2d 943 [1989]).
Chief Judge Lippman and Judges
Ciparick, Graffeo, Read, Smith, Pigott
and Jones concur.

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

MOTIONS

4 SSD 59
Matter of Anonymous, an Applicant
for Admission to the Bar of the
State of New York,
 Appellant.

 Mo. No. 2010-883
The People &c.,
 Respondent,
 v.
Sheila B.,
 Appellant.

In the Matter of Sheila B.,
 Appellant.

3 Mo. No. 2010-891
In the Matter of Barbara J.
Bracci,
 Appellant,
 v.
New York State Division of Human
Rights,
 Respondent.

4 SSD 58
The People &c. ex rel. Clifford
Brathwaite, Also Known as Eric
Smith,
 Appellant,
 v.
Brian Fischer, &c., et al.,
 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 dismissed
upon the ground that this Court does
not have jurisdiction to entertain it
(see NY Const, art VI, § 3[b]; CPLR
5602).

On the Court's own motion, appeal
dismissed, without costs, as untimely
(see CPLR 5513[a]).
Motion for leave to appeal dismissed
as untimely (see CPLR 5513[b]).
Motion for ancillary relief dismissed
as academic.

Appeal dismissed without costs, by the
Court sua sponte, upon the ground that
no appeal lies from an order of an
individual justice of the Appellate
Division (see NY Const, art VI,
§ 3[b]; CPLR 5601).

1 Mo. No. 2010-968
Mildred Branch, et al.,
 Appellants,
 v.
Riverside Park Community LLC,
et al.,
 Respondents.

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

2 Mo. No. 2010-897
In the Matter of Central Hudson
Gas & Electric Corporation,
 Appellant,
 v.
Assessor of Town of Newburgh,
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 and is not
an order of the type provided for in
CPLR 5602(a)(2).

1 Mo. No. 2010-935
In the Matter of Citizens
Emergency Committee to Preserve
Preservation,
 Appellant,
 v.
Robert B. Tierney, &c., et al.,
 Respondents.

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

4 Mo. No. 2010-936
In the Matter of Paul D'Accursio,
 Respondent,
 v.
Monroe County et al.,
 Appellants.

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

4 Mo. No. 2010-963
Jennifer M. Doherty and Patrick
M. Doherty, as assignees of
Thomas S. Fitzpatrick,
 Appellants,
 v.
Merchants Mutual Insurance
Company,
 Respondent.

Motion to dismiss appeal denied.

1 Mo. No. 2010-893
GLC Securityholder LLC,
 Appellant,
 v.
Goldman, Sachs & Co., et al.,
 Respondents.

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

1 Mo. No. 2010-924
The People &c.,
 Respondent,
 v.
Francis Harrison,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2010-801
Cynthia Hoogland et al.,
 Plaintiffs,
 v.
Transport Expressway, Inc.,
et al.,
 Defendants,
Walmart Stores East, Inc.,
et al.,
 Respondents,
Fiducie Location Pinard,
 Appellant.
(And a Third-Party Action.)
(And Another Action.)

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

1 Mo. No. 2010-899
Jemrock Realty Co., LLC.,
 Respondent,
 v.
Jay Krugman,
 Appellant.

Motion for leave to appeal dismissed
upon the ground that the Court of
Appeals does not have jurisdiction to
entertain this motion for leave to
appeal from the order of the Appellate
Division entered in this proceeding
commenced in the Civil Court of the
City of New York (see NY Const, art
VI, § 3[b][7]; CPLR 5602).

3 Mo. No. 2010-959
In the Matter of Jeffrey A.
Jones,
 Respondent,
 v.
Diette D. Jones, &c.,
 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.

3 Mo. No. 2010-1008
The People &c. ex rel. Ricardo
Joseph,
 Appellant,
 v.
David Napoli, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2010-865
In the Matter of Kemper Mutual
Insurance Company et al.,
 Respondents,
Patricia Russell,
 Appellant.

Motion for leave to appeal granted.

1 Mo. No. 2010-880
In the Matter of Frank Gaetano
Lamberti, &c.,
 Petitioner,
 v.
Glenn Angiolillo,
 Appellant,
Louis Marinelli, &c.,
 Respondent,
Joseph Angiolillo,
 Respondent.

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

2 Mo. No. 2010-988
In the Matter of Inge L. Mader,
 Respondent,
 v.
Kenny Johnson,
 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.

3 Mo. No. 2010-910
In the Matter of Peggy Magidson,
 Appellant,
 v.
Strategic Telemarketing, Inc.
et al.,
 Respondents.
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.

2 Mo. No. 2010-960
MF Global, Inc., et al.,
 Respondents,
 v.
Morgan Fuel & Heating Co., Inc.,
 Appellant.

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

3 Mo. No. 2010-931
In the Matter of Francesco
Nicoletta,
 Appellant,
 v.
New York State Division of
Parole,
 Respondent.

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

3 SSD 57
Natalia Cokinos Oakes, &c.,
 Respondent,
 v.
Betty O. Muka,
 Appellant.

Appeal, insofar as taken from the June
2010 Appellate Division order,
dismissed without costs, by the Court
sua sponte, upon the ground that it
does not finally determine the action
within the meaning of the
Constitution; appeal, insofar as taken
from the January 2010 Appellate
Division order, dismissed without
costs, by the Court sua sponte, upon
the ground that no substantial
constitutional question is directly
involved.

4 Mo. No. 2010-876
In the Matter of Andrew Ophardt,
 Appellant,
 v.
Julio Vasquez, &c., et al.,
 Respondents.

On the Court's own motion, appeal dismissed, without costs, upon the ground that no substantial constitutional question is directly involved.
Motion for leave to appeal denied.

3 Mo. No. 2010-921
In the Matter of Edgar Ruano
Perez,
 Appellant,
 v.
Luis Licea,
 Respondent,
2180 Realty Corporation et al.,
 Respondents,
Rochdale Insurance Company,
 Respondent.
Workers' Compensation Board,
 Respondent.

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

2 Mo. No. 2010-970
In the Matter of Save Open Space,
et al.,
 Appellants,
 v.
Planning Board of the Town of
Newburgh, et al.,
 Respondents.

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

2 Mo. No. 2010-872
In the Matter of Anthony J.
Segreto, et al.,
 Appellants,
 v.
Alexander B. Grannis, &c.,
 Respondent.

Motion for leave to appeal dismissed as untimely (see CPLR 5513[b]).

4 Mo. No. 2010-815
The People &c. ex rel. Archie
Shannon,
 Appellant,
 v.
Sibatu Khahaifa, &c. et al.,
 Respondents.

Motion for leave to appeal dismissed
upon the ground that appellant has
been released from custody and,
therefore, his liberty is no longer
restrained to such a degree as to
entitle him to the extraordinary writ
of habeas corpus (see People ex rel.
Wilder v Markley, 26 NY2d 648 [1970]).
Judge Pigott took no part.

2 Mo. No. 2010-882
Elissa Spiegel, &c., et al.,
 Respondents,
 v.
Andrew Goldfarb, et al.,
 Defendants;
Shearer & Essner, LLP,
 Nonparty-Appellant.

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

3 Mo. No. 2010-903
Mikhail Tkeshelashvili et al.,
 Appellants,
 v.
State of New York,
 Respondent.

Motion for leave to appeal granted.

1 Mo. No. 2010-887
Zachary Velazquez, &c., et al.,
 Appellants,
 v.
The City of New York Health and
Hospitals Corporation (Jacobi
Medical Center),
 Respondent.

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

1 Mo. No. 2010-971
In the Matter of James T.
Williams,
 Appellant,
 v.
David A. Hansell, &c. et al.,
 Respondents.

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

2 Mo. No. 2010-1011
In the Matter of Ricardo Z.
(Anonymous),
 Appellant.

Motion for leave to appeal denied.