

October 26, 2010

CASES

2 No. 228 SSM 48
Pedro Acosta,
 Appellant,
 v.
City of New York, et al.,
 Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, and case remitted to the Appellate Division, Second Department, for consideration of issues raised but not determined on the appeal to that court, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Pigott and Jones concur. Judge Smith dissents and votes to affirm for the reasons stated in the memorandum at the Appellate Division (72 AD3d 624).

2 No. 229 SSM 50
The People &c.,
 Respondent,
 v.
Raymond Brun,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, defendant's coram nobis application granted, the Appellate Division's January 2009 order of modification vacated and the case remitted to the Appellate Division, Second Department, for a de novo determination of the appeal to that court, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

2 No. 157
In the Matter of Jimmy D., a
Person Alleged to be a Juvenile
Delinquent,
 Appellant.

Presentment Agency,
 Respondent.

Order affirmed, without costs. Opinion by Judge Pigott. Judges Graffeo, Read and Smith concur. Chief Judge Lippman dissents in an opinion in which Judges Ciparick and Jones concur.

3 No. 160
In the Matter of Empire State
Towing and Recovery Association,
Inc.,
 Appellant.
Commissioner of Labor,
 Respondent.

Order reversed, with costs, and matter
remitted to the Appellate Division,
Third Department, with directions to
remand to the Unemployment Insurance
Appeal Board for further proceedings in
accordance with the opinion herein.
Opinion by Judge Jones.
Chief Judge Lippman and Judges
Ciparick, Graffeo, Read, Smith and
Pigott concur.

1 No. 158
In the Matter of Daniel H.,
A Person Alleged to be a Juvenile
Delinquent,
 Appellant.

Presentment Agency,
 Respondent.

Appeal dismissed, without costs, in a
memorandum.
Judges Graffeo, Read, Smith, Pigott and
Jones concur.
Judge Ciparick dissents and votes to
reverse in an opinion in which Chief
Judge Lippman concurs.

2 No. 127
Joseph Moray,
 Appellant,
 v.
Koven & Krause, Esqs.,
 Respondent.

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

4 No. 230 SSM 47
Coriey Reynolds et al.,
 Appellants,
 v.
Millard J. Knibbs et al.,
 Respondents.

On review of submissions pursuant to
section 500.11 of the Rules, order
reversed, with costs, and defendants'
motion for summary judgment denied, in
a memorandum.
Chief Judge Lippman and Judges
Ciparick, Graffeo, Read, Smith, Pigott
and Jones concur.

MOTIONS

2 SSD 60
In the Matter of Joshua
Bernstein, a Disbarred Attorney.

Grievance Committee for the
Second, Eleventh, and Thirteenth
Judicial Districts,
 Petitioner,
Joshua Bernstein,
 Appellant.

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. 2010-976
In the Matter of James Blackwell,
 Appellant,
 v.
Richard A. Keenan, &c. et al.,
 Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2010-980
Cabrini Terrace Joint Venture,
 Respondent,
 v.
Charles O'Brien,
 Appellant.

Motion for leave to appeal dismissed
upon the ground that the Court of
Appeals does not have jurisdiction to
entertain it (see NY Const, art VI,
§ 3; CPLR 5602).
Motion for poor person relief
dismissed as academic.

1 Mo. No. 2010-969
Juliette DeJoie Cadichon, et al.,
 Appellants,
 v.
Thomas Facelle M.D., et al.,
 Respondents.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that affirmed the August 26, 2008 Supreme Court order, treated as a motion for reconsideration of so much of this Court's July 1, 2010 order as dismissed plaintiffs' appeal as of right from that portion of the Appellate Division order, granted, and, upon reconsideration, jurisdiction of so much of the appeal retained; motion, insofar as it seeks leave to appeal from the above-recited part of the Appellate Division order dismissed as unnecessary; motion, insofar as it seeks leave to appeal from the remainder of the Appellate Division order dismissed upon the ground that it does not finally determine the action within the meaning of the Constitution; motion, insofar as it seeks leave to appeal from the amended judgment of Supreme Court pursuant to CPLR 5602(a)(1)(ii), dismissed upon the ground that the portion of the Appellate Division order that affirmed the August 26, 2008 Supreme Court order is a final appealable paper from which an appeal was properly taken (see CPLR 5611); appeal from the amended judgment dismissed without costs, by the Court, on its own motion, upon the ground that the portion of the Appellate Division order that affirmed the August 26, 2008 Supreme Court order is a final appealable paper from which an appeal was properly taken (see CPLR 5611), in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

4 Mo. No. 2010-1033
In the Matter of Frederic C.
Carpenter,
 Appellant,
 v.
Michael Corcoran, &c., et al.,
 Respondents.

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

1 Mo. No. 2010-892
In the Matter of Mercedes Casado,
et al.,
 Respondents,
 v.
Marvin Markus, &c., et al.,
 Appellants.

Motion for leave to appeal granted.

1 Mo. No. 2010-919
In the Matter of Mercedes Casado,
et al.,
 Respondents,
 v.
Marvin Markus, &c., et al.,
 Appellants.

Motion by the Rent Stabilization
Association of NYC, Inc., et al. for
leave to appear as amici curiae on the
motion for leave to appeal herein
granted and the affidavit is accepted
as filed, and 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.

2 Mo. No. 2010-896
Development Strategies Company,
LLC, Profit Sharing Plan,
 Respondent,
 v.
Astoria Equities, Inc., et al.,
 Appellants,
et al.,
 Defendants.

Motion, insofar as it seeks leave to
appeal from that part of the Appellate
Division order that affirmed Supreme
Court's November 2008 order, dismissed
upon the ground that such portion of
the order does not finally determine
the action within the meaning of the
Constitution; motion for leave to
appeal otherwise denied.

3 SSD 65
The People of the State of New
York ex rel. Timothy Fair,
 Appellant,
 v.
David Rock, as Superintendent of
Great Meadow Correctional
Facility,
 Respondent.

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

2 SSD 63
David B. Jacobs,
 Appellant,
 v.
Michael Mostow, et al.,
 Defendants,
Arthur Riegel, et al.,
 Respondents.

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

2 SSD 64
David B. Jacobs,
 Appellant,
 v.
Michael Mostow, et al.,
 Respondents,
et al.,
 Defendants.

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

4 Mo. No. 2010-1006
In the Matter of James I.
Johnson,
 Appellant,
 v.
Town of Amherst, et al.,
 Respondents.

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

4 Mo. No. 2010-953
George Konstantinou, &c.,
 Appellant,
 v.
Phoenix Insurance Company,
 Respondent.

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

1 Mo. No. 2010-890
In the Matter of L&M Bus Corp.,
et al.,
 Respondents,
 v.
The New York City Department of
Education, et al.,
 Appellants,
Local 1181 of the Amalgamated
Transit Union,
 Intervenor-Appellant.

Motion by the New York City Department
of Education, et al. for leave to
appeal granted.
Motion by Local 1181 of the
Amalgamated Transit Union, insofar as
it seeks leave to appeal from that
part of the Appellate Division order
that affirmed Supreme Court's
determination denying discovery and
the application to "complete the
record," dismissed upon the ground
that such part of the order does not
finally determine the proceeding
within the meaning of the
Constitution; motion for leave to
appeal otherwise granted.

3 Mo. No. 2010-991
Lake George Park Commission,
 Respondent,
 v.
John Salvador, Jr., et al.,
 Appellants.
(And Another Action.)

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

2 Mo. No. 2010-994
In the Matter of Kareem Lee,
 Appellant,
 v.
Alan D. Marrus, &c.,
 Respondent.

Motion for leave to appeal denied.

2 SSD 62
Santo Lombardo, et al.,
 Appellants,
 v.
Mastec North America, Inc., et
al.,
 Defendants,
Queens Network Cable,
 Respondent.
(And a Third-Party Action.)

Appeal dismissed without costs, by the
Court sua sponte, upon the ground that
the Appellate Division order appealed
from, which denied reargument, does
not finally determine the action
within the meaning of the
Constitution.

4 Mo. No. 2010-977
In the Matter of Anthony J.
Macula,
 Appellant,
 v.
Board of Education, Geneseo
Central School District et al.,
 Respondents.

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

4 SSD 61
Jennifer D. Martino,
 Respondent,
 v.
Michael A. Stolzman,
 Respondent,
Michael Oliver and Susan Oliver,
 Appellants,
(Action No. 1.)

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

Judith A. Rost,
 Respondent,
 v.
Michael A. Stolzman, et al.,
 Respondents,
Michael Oliver and Susan Oliver,
 Appellants
(Action No. 2.)

2 Mo. No. 2010-962
Harold Miller,
 Appellant,
 v.
Mamadou Bah,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2010-1051
In the Matter of Elizabeth Miney,
 Appellant,
 v.
Shaun Donovan, &c.,
 Respondent,
et al.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2010-1090
The People &c. ex rel. Anthony
Munford,
 Appellant,
 v.
William J. Connelly, &c.,
 Respondent.

Motion for reargument of motion for
leave to appeal denied.

3 Mo. No. 2010-1003
In the Matter of New York State
Superfund Coalition, Inc.,
 Appellant,
 v.
New York State Department of
Environmental Conservation,
et al.,
 Respondents.

Motion for leave to appeal granted.

4 Mo. No. 2010-992
In the Matter of the State of New
York,
 Respondent,
 v.
Stanley L. Company, &c.,
 Appellant.

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

2 Mo. No. 2010-1079
In the Matter of Elijah P.
(Anonymous).

New Alternatives for Children,
Inc.,
 Respondent;
C.I.P. (Anonymous),
 Appellant.

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

3 Mo. No. 2010-1004
In the Matter of Bob Parkhurst,
 Claimant,
 v.
United Rentals Aerial Equipment,
Inc., et al.,
 Appellants.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal granted.

In the Matter of James Arthur
Robinson,
 Claimant,
 v.
Gould Pumps ITT et al.,
 Appellants.
Workers' Compensation Board,
 Respondent.

3 Mo. No. 2010-1048
The People &c. ex rel. Daniel
Piazza,
 Appellant,
 v.
Raymond Cunningham, &c.,
 Respondent.

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

3 Mo. No. 2010-1005
In the Matter of Randy Raynor,
 Claimant,
 v.
Landmark Chrysler et al.,
 Appellants,
et al.,
 Respondent.
Workers' Compensation Board,
 Respondent.

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 granted.

2 Mo. No. 2010-999
In the Matter of Alice Roberts,
&c.,
 Appellant,
 v.
Nathan Borg,
 Respondent.

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

3 Mo. No. 2010-1010
Rose Inn of Ithaca, Inc., et al.,
 Appellants,
 v.
Great American Insurance Company,
 Respondent.

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

1 Mo. No. 2010-982
Richard Rowell,
 Appellant,
 v.
D. Lashley and the State Division
of Human Rights,
 Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2010-979
In the Matter of Rachelle A.
Saunders,
 Appellant,
 v.
Todd Hamilton,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2010-1000
Herbert J. Stein, &c.,
 Respondent,
 v.
Jeffrey Einhorn et al.,
 Appellants.

Motion for leave to appeal granted.

1 Mo. No. 2010-986
Jose Luis Toledo, &c.,
 Respondent,
 v.
Iglesia Ni Christo,
 Appellant.

Motion for leave to appeal granted.

3 Mo. No. 2010-948
In the Matter of Daniel Williams,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

Motion for leave to appeal granted.
Motion for poor person relief granted.