

September 23, 2010

**CASES**

1                   No. 212   SSM 38  
The People &c.,  
                  Appellant,  
                  v.  
Jesse Brabham,  
                  Respondent.

On review of submissions pursuant to section 500.11 of the Rules, appeal dismissed upon the ground that the modification at 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 \* \* \* modification" (CPL 450.90[2][a]). In view of the above, we have no occasion to comment on the dissent's position that Penal Law § 70.25(2-c) mandates that the Appellate Division delineate its reasons for modifying the sentence. Chief Judge Lippman and Judges Ciparick, Graffeo, Read and Jones concur. Judge Pigott dissents in an opinion in which Judge Smith concurs.

1                   No. 209   SSM 43  
The People &c.,  
                  Respondent,  
                  v.  
Jose Rivera,  
                  Appellant.

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



4                   Mo. No. 2010-905  
In the Matter of Johnny Downs,  
                    Appellant,  
                    v.  
New York State Executive  
Department, et al.,  
                    Respondents.

Motion for reargument of motion for  
leave to appeal denied.

4                   SSD 53  
In the Matter of the State of New  
York,  
                    Respondent,  
                    v.  
Daniel Farnsworth,  
                    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.

2                   SSD 56  
In the Matter of Gent Uniform  
Rental Corp.,  
                    Appellant,  
                    v.  
County of Suffolk Department of  
Labor,  
                    Respondent.  
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In the Matter of Gent Uniform  
Rental Corp.,  
                    Appellant,  
                    v.  
County of Suffolk, et al.,  
                    Respondents.

Appeal, insofar as taken from that  
part of the Appellate Division order  
that affirmed so much of Supreme  
Court's order and judgment as  
dismissed the proceeding in Matter of  
Gent Uniform Rental Corp. v County of  
Suffolk, et al., dismissed without  
costs, by the Court sua sponte, upon  
the ground that, as to that part of  
the order, no substantial  
constitutional question is directly  
involved; appeal otherwise dismissed  
without costs, by the Court sua  
sponte, upon the ground that the  
remainder of the Appellate Division  
order does not finally determine the  
proceedings within the meaning of the  
Constitution.

2                    Mo. No. 2010-765  
In the Matter of James Harris,  
et al.,  
                    Appellants,  
                    v.  
Town Board of Town of Riverhead,  
et al.,  
                    Respondents,  
et al.,  
                    Respondent.

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

2                    Mo. No. 2010-885  
Town of Hempstead,  
                    Respondent,  
                    v.  
East Coast Resource Group, LLC,  
                    Appellant.

Motion for leave to appeal granted.

3                    Mo. No. 2010-869  
The People &c. ex rel. Joseph  
II.,  
                    Respondent,  
                    v.  
Superintendent of Southport  
Correctional Facility, et al.,  
                    Appellants.

Motion for reargument denied.

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In the Matter of State of New  
York,  
                    Appellant,  
                    v.  
Humberto G. (Anonymous),  
                    Respondent.

4                    Mo. No. 2010-859  
The People &c.,  
                    Respondent,  
                    v.  
Donnell Jefferson,  
                    Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2010-1029  
In the Matter of Kathleen K.  
(Anonymous).

Motion to enlarge record on appeal  
denied as unnecessary upon the ground  
that the material sought to be added  
is subject to judicial notice.

Suffolk County Department of  
Social Services,  
                  Respondent;  
Steven K. (Anonymous),  
                  Appellant.  
(And Another Proceeding.)

2                    Mo. No. 2010-754  
Nakia Lynfatt,  
                  Appellant,  
                  v.  
Jorge Lasluisa Escobar, et al.,  
                  Respondents,  
et al.,  
                  Defendants.

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

2                    SSD 55  
Nella Manko,  
                  Appellant,  
                  v.  
Lenox Hill Hospital,  
                  Respondent.

Appeal dismissed without costs, by the  
Court sua sponte, upon the ground that  
the orders appealed from do not  
finally determine the action within  
the meaning of the Constitution.

2                    Mo. No. 2010-839  
In the Matter of Jovan M.  
(Anonymous).  
  
Westchester County Department of  
Social Services,  
                  Respondent;  
Katherine G. (Anonymous),  
                  Appellant.  
(And Three Other Proceedings.)

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

4                   Mo. No. 2010-868  
The People &c.,  
                  Respondent,  
          v.  
Michael Montalvo,  
                  Appellant.

Motion for leave to appeal denied.

3                   Mo. No. 2010-818  
State of New York,  
                  Respondent,  
          v.  
Christine S. Williams, &c.,  
et al.,  
                  Defendants,  
R.J. Guerrero, Inc.,  
                  Appellant.  
(And Third-Party and Fourth-Party  
Actions.)

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

1                   Mo. No. 2010-851  
Reliance Construction Ltd., &c.,  
                  Respondent,  
          v.  
Jim Kennelly, &c., 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 (see Burke  
v Crosson, 85 NY2d 10, 18 n 5 [1995]).

2                   Mo. No. 2010-757  
In the Matter of Riverhead PGC,  
LLC,  
                  Appellant,  
          v.  
Town of Riverhead, et al.,  
                  Respondents,  
et al.,  
                  Respondent.

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

3                    Mo. No. 2010-811  
In the Matter of Christina RR. et  
al., &c.

Motion for leave to appeal denied.

Broome County Department of  
Social Services,  
                          Respondent;  
Leonard RR.,  
                          Appellant,  
et al.,  
                          Respondent.

2                    Mo. No. 2010-819  
In the Matter of Leon Schneider,  
deceased.

Motion for leave to appeal denied.

Beth Schneider, &c.,  
                          Appellant;  
Nassau County Department of  
Social Services,  
                          Respondent.

2                    Mo. No. 2010-929  
The People &c.,  
                          Respondent,  
                          v.  
Thomas Sirico,  
                          Appellant.

Motion to vacate this Court's July 15,  
2010 dismissal order granted.  
Motion for assignment of counsel  
granted and Robert C. Mitchell, Esq.,  
Legal Aid Society of Suffolk County,  
Inc., Arthur M. Cromarty Court  
Complex, 300 Center Drive, PO Box  
1697, Riverhead, NY 11901 assigned as  
counsel to the appellant on the appeal  
herein.

4                    Mo. No. 2010-844  
In the Matter of Douglas Worth,  
                          Appellant,  
                          v.  
Honorable Joseph D. Valentino,  
                          Respondent.

Motion for leave to appeal denied.