

February 22, 2011

CASES

2 No. 22
East Hampton Union Free School
District,
 Appellant,
 v.
Sandpebble Builders, Inc.,
 Defendant,
Victor Canseco,
 Respondent.

Order affirmed, with costs, in a memorandum.
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

3 No. 90 SSM 63
In the Matter of Eternal Flame of
Hope Ministries, Inc.,
 Respondent,
 v.
Lori King, as Assessor of the
Town of Highland, et al.,
 Appellants.

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

2 No. 18
The People &c.,
 Respondent,
 v.
Isidore Farkas,
 Appellant.

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

1 No. 89 SSM 2
In the Matter of the Estate of
Seymour Halpern, &c.,
 Deceased.

Adrienne Halpern, et al.,
 Respondents,
 v.
Elizabeth Halpern,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question not answered upon the ground that it is unnecessary. When viewed in its entirety, the testimony from the attesting witness is insufficient to create a triable issue of fact as to whether decedent's will was duly executed.
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

2 No. 13
The People &c.,
 Respondent,
 v.
Ollman Lopez,
 Appellant.

Order affirmed.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Ciparick
and Jones concur.
Judge Smith concurs in result in an
opinion in which Judges Read and Pigott
concur.

4 No. 8
The People &c.,
 Respondent,
 v.
Michael Edward Prindle,
 Appellant.

Order modified by reducing defendant's
conviction of murder in the second
degree to manslaughter in the second
degree and remitting to Supreme Court,
Monroe County, for resentencing, and as
so modified, affirmed, in a memorandum.
Chief Judge Lippman and Judges
Ciparick, Smith and Jones concur.
Judge Pigott dissents and votes to
affirm in an opinion in which Judges
Graffeo and Read concur.

1 No. 16
Union Carbide Corporation,
 Appellant,
 v.
Affiliated FM Insurance Company,
et al.,
 Defendants,
Continental Casualty Company, et
al.,
 Respondents.

Order modified, without costs, in
accordance with the opinion herein, and
as so modified, affirmed.
Certified question answered in the
negative.
Opinion by Judge Smith.
Chief Judge Lippman and Judges
Ciparick, Graffeo, Read, Pigott and
Jones concur.

MOTIONS

2 Mo. No. 2010-1390
In the Matter of Equia B.
(Anonymous),
 Appellant.

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

3 Mo. No. 2010-1361
In the Matter of Otilia
Caballero,
 Appellant,
 v.
Fabco Enterprises et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

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

1 Mo. No. 2011-117
Juliette DeJoie Cadichon, et al.,
 Appellants,
 v.
Thomas Facelle M.D., et al.,
 Respondents.

Motions to strike material from the
record on appeal and references
thereto in appellants' brief granted
to the extent of deeming stricken
appellants' notice of motion for
reargument and renewal and material in
support thereof and references thereto
in appellants' brief.

4 Mo. No. 2010-1298
The People &c.,
 Respondent,
 v.
James D. Carlton,
 Appellant.

Motion for leave to appeal denied upon
the ground that an appeal lies as of
right (see CPLR 5601[a]).

2 Mo. No. 2011-3
The People &c.,
 Respondent,
 v.
Mark Copeland,
 Appellant.

Motion for leave to appeal denied.

1 SSD 8
In the Matter of Norman Leonard
Cousins, An Attorney and
Counselor-at-Law:

Departmental Disciplinary
Committee for the First Judicial
Department,

 Respondent,
Norman Leonard Cousins,
 Appellant.

Appeal dismissed without costs, by the
Court sua sponte, upon the ground that
no substantial constitutional question
is directly involved. Judiciary Law
§ 90(8) does not provide an
independent predicate for an appeal as
of right to this Court.

2 Mo. No. 2010-1375

The People &c.,
 Respondent,

 v.
Steven Farahat,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2010-1180

In the Matter of Nikolai
Gecetchkori,
 Appellant,

 v.
Anthony J. Annucci, &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 poor person relief
dismissed as academic.

3 Mo. No. 2011-47

In the Matter of Granger Group
et al.,

 Appellants,
 v.

Town of Taghkanic et al.,
 Respondents,

Alan Wilzig et al.,
 Respondents.

Motion for leave to appeal denied.
Motion for a stay dismissed as
academic.

4 Mo. No. 2011-28
In the Matter of Lisa Heaton,
 Respondent,
 v.
Monroe County et al.,
 Appellants.

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

1 Mo. No. 2010-1211
Rita Maria Sanchez de Hernandez,
et al.,
 Appellants,
 v.
Bank of Nova Scotia, &c.,
 Respondent.

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

2 Mo. No. 2010-1358
Town of Islip,
 Appellant,
 v.
H.T. Schneider Associates, &c.,
et al.,
 Respondents.

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

1 Mo. No. 2010-1382
Muriel Karas,
 Appellant,
 v.
Christopher T. Coad, M.D.,
et al.,
 Respondents.

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

2 Mo. No. 2010-1345
In the Matter of Willie
McClurkin,
 Respondent,
 v.
Miriam Bailey,
 Appellant.
(And Another Proceeding.)

Motion for leave to appeal denied.

1 Mo. No. 2010-1227
David Mirvish,
 Appellant,
 v.
Hanno D. Mott, &c., et al.,
 Respondents.

Motion for leave to appeal granted.

3 Mo. No. 2010-1295
Joel Murray,
 Appellant,
 v.
State of New York,
 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.

2 Mo. No. 2010-1387
The People &c.,
 Respondent,
 v.
Valery Novack,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2011-38
In the Matter of Sue Ann
Paivanas,
 Appellant,
 v.
The Resource Center 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. Motion for poor person relief dismissed as academic.

1 Mo. No. 2011-14
Idelfonso Rivera, Sr., et al.,
 Appellants,
 v.
The City of New York, et al.,
 Respondents.

Motion for leave to appeal dismissed as untimely. The prior motion for leave to appeal made to the Appellate Division was untimely (see Karger, Powers of the New York Court of Appeals § 12:3, at 436-437 [3d ed rev]).

1 Mo. No. 2011-43
In the Matter of Jared S. et al.,
&c.

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

Monet S.,
 Appellant,
Administration for Children's
Services,
 Respondent.

1 Mo. No. 2011-74
In the Matter of Martin S.
Streit, &c.

Motion for leave to appeal denied.
Motion for a stay dismissed as
academic.

Departmental Disciplinary
Committee for the First Judicial
Department,
 Respondent,
Martin S. Streit,
 Appellant.

3 Mo. No. 2010-1338
In the Matter of Injah Tafari,
 Appellant,
 v.
Donald Selsky, &c.,
 Respondent.
Appellate Division No. 503375

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. 2010-1339
In the Matter of Injah Tafari,
 Appellant,
 v.
Donald Selsky, &c.,
 Respondent.
Appellate Division No. 503386

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

3 Mo. No. 2010-1340
In the Matter of Injah Tafari,
 Appellant,
 v.
Donald Selsky, &c.,
 Respondent.
Appellate Division No. 503385

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

3 Mo. No. 2010-1341
In the Matter of Injah Tafari,
 Appellant,
 v.
Donald Selsky, &c.,
 Respondent.
Appellate Division No. 503388

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

2 Mo. No. 2011-99
Tribeca Lending Corp.,
 Respondent,
 v.
Linda Crawford,
 Appellant,
et al.,
 Defendants.

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 a stay dismissed as
academic.

3 Mo. No. 2011-42
In the Matter of Niya X., &c.

Schenectady County Department of
Social Services,
 Respondent;
Martha Y.,
 Appellant.

Motion for leave to appeal denied.