

DECEMBER 17, 2008

CASES

1 No. 210
The People &c.,
 Appellant-Respondent,
 v.
Alfred Ford,
 Respondent-Appellant.

Order modified by reinstating defendant's conviction of robbery in the first degree and remitting to the Appellate Division, First Department, for consideration of the facts (see CPL 470.25[2][d]; 470.40[2][b]) and, as so modified, affirmed, in a memorandum. Chief Judge Kaye and Judges Ciparick, Graffeo and Read concur. Judge Jones dissents in part and votes to affirm in an opinion in which Judges Smith and Pigott concur.

3 No. 222 SSM 44
In the Matter of Paul G. Kenny,
 Appellant,
 v.
Thomas P. DiNapoli, as New York
State Comptroller,
 Respondent.

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

4 No. 207
The People &c.,
 Respondent,
 v.
Donald Mills,
 Appellant.

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

4 No. 223 SSM 45
Todd Schosek, as Administrator of
the Estate of Jesse J. Schosek,
Deceased, and Kelly Schosek, as
Administrator of the Estate of
Carol L. Schosek, Deceased,
 Appellants,
 v.
Amherst Paving, Inc., et al.
 Respondents.

On review of submissions pursuant to
section 500.11 of the Rules, order,
insofar as appealed from, reversed, with
costs, and that part of defendant Amherst
Paving, Inc.'s motion that sought summary
judgment dismissing the complaint against
it denied. A triable issue of fact exists
as to whether Amherst Paving created or
exacerbated a dangerous condition.
Chief Judge Kaye and Judges Ciparick,
Graffeo, Read, Smith, Pigott and Jones
concur.

3 No. 209
In the Matter of Suffolk Regional
Off-Track Betting Corporation,
 Petitioner-Cross Appellant,
 v.
New York State Racing and
Wagering Board, et al.,
 Appellants-Respondents.
(And Four Other Related
Proceedings.)

Order modified, with costs to respondents-
appellants, by reinstating the judgment
of Supreme Court, Albany County, and, as
so modified, affirmed.
Opinion by Chief Judge Kaye.
Judges Ciparick, Graffeo, Read, Smith,
Pigott and Jones concur.

1 No. 208
The People &c.,
 Respondent,
 v.
Jose Then,
 Appellant.

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

2-10 Mo. No. 1194
In the Matter of Thomas D.
(Anonymous),
Appellant.

Motion for leave to appeal denied.

2-10 Mo. No. 1190
In the Matter of Davies Farm,
LLC,
Appellant,
v.
Planning Board of Town of
Clarkstown,
Respondent.

Motion for leave to appeal denied.

1-10 Mo. No. 1198
Dennis M. Dodge, Jr., &c. et al.,
Respondents,
v.
William Lynch, &c. et al.,
Appellants.

Motion for leave to appeal denied.

2-13 Mo. No. 1192
Brent F. Fung et al.,
Appellants,
v.
Japan Airlines Company, Ltd., et
al.,
Defendants,
Japan Airlines Management Corp.,
Respondent.
(And Other Actions.)

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

2-10 Mo. No. 1322
Kevin Glassman &c.,
Respondent,
v.
Pro Health Ambulatory Surgery
Center, Inc. et al.,
Appellants.

Motion by the New York State Association
of Ambulatory Surgery Centers, Inc. for
leave to file a memorandum of law
amicus curiae on the motion for leave to
appeal herein granted and the memorandum
of law is accepted as filed.

2-10 Mo. No. 1196
Kevin Glassman &c.,
Respondent,
v.
Pro Health Ambulatory Surgery
Center, Inc. et al.,
Appellants.

Motion for leave to appeal dismissed upon
the ground that the orders sought to be
appealed from do not finally determine
the action within the meaning of the
Constitution.

2- Mo. No. 1206
In the Matter of Valerie Gomez,
Respondent-Appellant,
v.
Joseph A. Stout, &c., et al.,
Appellants-Respondents.

Motions for leave to appeal granted.

4-10 Mo. No. 1204
The People &c. ex rel. Dante
Griffin,
Appellant,
v.
New York State Division of Parole
et al.,
Respondents.

Motion for leave to appeal dismissed on
the ground that relator has been released
on post-release supervision 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]).

1-10 Mo. No. 1179
In the Matter of Joan Hansen &
Company, Inc.,
Respondent,
v.
Everlast World's Boxing
Headquarters Corp.,
Appellant.

Motion for leave to appeal granted.

3-10 Mo. No. 1187
In the Matter of Larry Jolley,
Appellant,
v.
Ind-Venture Communications, Inc.,
et al.,
Respondents.
Workers' Compensation Board,
Respondent.

Motion for leave to appeal denied.

3- Mo. No. 1216
In the Matter of Iftikhar Ahmad
Khan,
Appellant,
v.
Omne Staffing, Inc., et al.,
Respondents.
Workers' Compensation Board,
Respondent.

Motion for reargument of motion for leave
to appeal denied.

1-14 Mo. No. 1181
Mark Leyse, &c.,
Appellant,
v.
Domino's Pizza LLC,
Respondent.

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

4-10 Mo. No. 1208
In the Matter of Emanuel T.O.M.
&c. et al.

Monroe County Department of Human
Services,
Respondent;
Tracy O. &c.,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 1193
John Moody,
Respondent,
v.
Svetlana Sorokina,
Appellant.
Richard Alderman,
Respondent.

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

3-14 Mo. No. 1203
In the Matter of Brittny MM. &c.

Michele Clark, as Probation
Officer of the Columbia County
Probation Department,
Respondent;
Brittny MM.,
Appellant.

Motion for leave to appeal denied.

3-14 Mo. No. 1202
In the Matter of New York State
Office of Mental Health,
Respondent,
v.
New York State Division of Human
Rights et al.,
Respondents,
Alphonso Purse, Jr.,
Appellant.
(And Another Related Proceeding.)

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

2 Mo. No. 1189
Deonarine Ramnarain,
Appellant,
v.
Chandradat Ramnarain,
Respondent,
et al.,
Defendant.

Motion, insofar as it seeks leave to
appeal from the December 2007 Appellate
Division order, dismissed upon the ground
that it does not lie, appellant previously
having moved for leave to appeal to the
Court of Appeals from the Appellate
Division order from which leave to appeal
is currently sought (10 NY3d 785 [2008]);
motion, insofar as it seeks leave to
appeal from the September 2008 Supreme
Court order, dismissed upon the ground
that such order does not finally determine
the action within the meaning of the
Constitution and thus does not constitute
a final judgment within the meaning of
CPLR 5602(a)(1)(ii).

3-10 Mo. No. 1197
The People &c.,
Respondent,
v.
James O. Roberts,
Appellant.

Motion for leave to appeal denied.

