

JUNE 26, 2008

CASES

3 No. 96
In the Matter of the People of
the State of New York, by Eliot
Spitzer, as Attorney General,
 Respondent-Appellant,
 v.
Applied Card Systems, Inc.,
et al.,
 Appellants-Respondents.

Order affirmed, without costs.
Opinion by Judge Ciparick.
Chief Judge Kaye and Judges Graffeo,
Pigott and Jones concur.
Judge Read dissents in an opinion.
Judge Smith took no part.

2 No. 124
Robert Falk, &c. et al.,
 Appellants,
 v.
Timothy Chittenden, &c.,
 Respondent.

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

2 No. 119
The People &c.,
 Respondent,
 v.
Gary Freycinet,
 Appellant.

Order affirmed.
Opinion by Judge Smith.
Chief Judge Kaye and Judges Graffeo, Read,
Pigott and Jones concur.
Judge Ciparick took no part.

4 No. 183 SSM 16
Richard M. Hauzinger,
 Respondent,
 v.
Aurela G. Hauzinger,
 Respondent,
Carl R. Vahl, Esq.
 Appellant.

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

1 No. 111
In the Matter of Marty Markowitz,
&c.,
 Appellant,
 v.
Gregory V. Serio, &c.,
 Respondent,
Farmers New Century Insurance
Company, et al.,
 Intervenors-Respondents.

Order reversed, with costs, and order and judgment of Supreme Court, New York County, reinstated.
Opinion by Judge Pigott.
Chief Judge Kaye and Judges Ciparick, Graffeo, Read and Jones concur.
Judge Smith concurs in result in an opinion.

2 No. 122
Solomon Mesholam,
 Respondent,
 v.
Isabelle Helene Mesholam,
 Appellant.

Judgment appealed from and order of the Appellate Division brought up for review modified, with costs to defendant, by remitting to Supreme Court, Nassau County, for further proceedings in accordance with the opinion herein and, as so modified, affirmed.
Opinion by Judge Pigott.
Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith and Jones concur.

3 No. 121
In the Matter of Ronnie Ramroop,
 Appellant,
 v.
Flexo-Craft Printing, Inc. et
al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

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

4 No. 185 SSM 18
In the Matter of United Church
Residences of Fredonia, New York,
Inc., &c.,
 Appellant,
 v.
Roger Newell, Assessor, Town of
Pomfret et al.,
 Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, and order of Supreme Court, Chautauqua County, reinstated, in a memorandum.
Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

MOTIONS

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1 Mo. No. 578
In the Matter of Annex Hotel,
 Respondent,
 v.
New York State Division of Human
Rights,
 Appellant,
et al.,
 Respondent.

Motion for leave to appeal denied.

1-14 Mo. No. 603
AJ Contracting Company, Inc.,
 Plaintiff,
 v.
Farmore Realty Inc., &c., et al.,
 Defendants.

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

PRG Planning & Development LLC,
 Appellant,
 v.
Latenite Magic, Inc., et al.,
 Defendants,
Conseco Variable Life Insurance
Company, et al.,
 Intervenors-Respondents.

2-13 Mo. No. 597
In the Matter of Gerard Campbell,
 Appellant,
 v.
Board of Trustees of New York
City Fire Department, Article
1-B Pension Fund, et al.,
 Respondents.

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

3-14 Mo. No. 583
In the Matter of Barbara C.
(Anonymous) et al.,
 Respondents-Appellants,
 v.
Amanda G. (Anonymous),
 Appellant-Respondent,
et al.,
 Respondent.

Motions for leave to appeal denied.

1- Mo. No. 609
In the Matter of Daniel Capellan,
Respondent,
v.
Hon. Lewis Bart Stone, &c.,
et al.,
Respondents,
Hon. Robert M. Morgenthau, &c.,
Appellant.

Motion for leave to appeal denied.

In the Matter of Julio Santos,
Respondent,
v.
Hon. Lewis Bart Stone, &c.,
et al.,
Respondents,
Hon. Robert M. Morgenthau, &c.,
Appellant.

2 Mo. No. 604
In the Matter of Dino Caroselli,
Appellant,
v.
Plummer Lott, &c.,
Respondent.

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.

Mo. No. 605
David Cohen et al., &c.,
Appellants,
v.
State of New York,
Respondent.

Motion by New York State Trial Lawyers
Association for leave to appear amicus
curiae on the motion for leave to appeal
herein dismissed as academic.

Barbara Minkoff, &c.,
Appellant,
v.
State of New York,
Respondent.

Ira Richman et al., &c.,
Appellants,
v.
State of New York,
Respondent.

4-10 Mo. No. 496
John R. Consedine,
Respondent,
v.
Portville Central School
District et al.,
Appellants.

Motion, insofar as it seeks leave to appeal from the Appellate Division orders dismissing appeals from Supreme Court's October 2006 order and November 2006 amended order, dismissed upon the ground that such orders do not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise granted.

1-10 Mo. No. 129
The People &c.,
Respondent,
v.
Ruppi Costas,
Appellant.

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

2-10 Mo. No. 596
In the Matter of Jayda D.-B.
(Anonymous).

Rockland County Department of
Social Services,
Respondent;
Roger D. (Anonymous),
Appellant.

Motion for leave to appeal denied.

2-10 Mo. No. 586
In the Matter of East End
Property Company #1, LLC, et al.,
Appellants,
v.
Richard M. Kessel, &c., et al.,
Respondents.

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

2-10 Mo. No. 590
The People &c.,
Respondent,
v.
Michael Gochnour,
Appellant.

Motion for leave to appeal denied.

4-10 Mo. No. 591
The People &c., Respondent,
v.
Jeffrey Harris, Appellant.

Motion for leave to appeal denied.

1-10 Mo. No. 171
The People &c., Respondent,
v.
Francis Jackson, Appellant.

Motion for leave to appeal denied upon the ground that an appeal lies as of right.

Mo. No. 770 SSD 40
In the Matter of Eric Josey, Appellant,
v.
New York City Police Department, et al., Respondents.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no appeal lies as of right from the unanimous order of the Appellate Division absent the direct involvement of a substantial constitutional question (CPLR 5601).

Mo. No. 715 SSD 38
Boris Khrapunskiy, et al., Respondents,
v.
Robert Doar, as Commissioner of the New York State Office of Temporary and Disability Assistance, Appellant.

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

1-11 Mo. No. 580
The People &c. ex rel. Herbert Lewis, Appellant,
v.
Warden, Rikers Island, Respondent.

Motion for leave to appeal denied.

Mo. No. 772 SSD 41
Mark Leyse, &c.,
Appellant,
v.
Domino's Pizza LLC,
Respondent.

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

2 Mo. No. 539
Sharon Mabry,
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.

4 Mo. No. 599
In the Matter of Mailstar, Inc.,
Appellant,
v.
New York State Division of Human Rights, et al.,
Respondents.

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

Mo. No. 743 SSD 39
In the Matter of Jayson Marino,
Appellant,
v.
Barbara Kahn, &c. et al.,
Respondents.

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

2-10 Mo. No. 606
The People &c.,
Respondent,
v.
Ivan Mason,
Appellant.

Motion for leave to appeal denied.

2-10 Mo. No. 558
The People &c.,
Respondent,
v.
Tyrone Mingo,
Appellant.

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

2-10 Mo. No. 588
 New York City Economic Develop-
 ment Corporation,
 Appellant,
 v.
 T.C. Foods Import and Export
 Co., Inc., et al.,
 Respondents.
 (And a Third-Party Action.)

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

4-10 Mo. No. 555
 Oneida Indian Nation,
 Appellant,
 v.
 The Pike Company, Inc.,
 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.

4-10 Mo. No. 456
 In the Matter of Andrea O'Connor,
 Appellant,
 v.
 Board of Education of City School
 District of City of Niagara
 Falls,
 Respondent.

Motion for leave to appeal dismissed upon
 the ground that the order sought to be
 appealed from does not finally determine
 the proceedings within the meaning of the
 Constitution.

 In the Matter of Dawn Smith-
 De Luca,
 Appellant,
 v.
 Board of Education of City School
 District of City of Niagara
 Falls,
 Respondent.

Mo. No. 749
 In the Matter of Partnership 92
 LP, et al.,
 Appellants,
 v.
 State of New York Division of
 Housing and Community Renewal,
 etc.,
 Respondent.

Motion to vacate this Court's May 14, 2008
 dismissal order granted.
 On the Court's own motion, appeal filed
 April 21, 2008 dismissed, without costs,
 as unnecessary.
 Motion to consolidate the two appeals
 dismissed as academic.

Mo. No. 552
Samuel Passante et al.,
Appellants,
v.
Agway Consumer Products, Inc.,
&c., et al.,
Defendants,
Mullen Industrial Handling
Corp.,
Respondent.

Motion to dismiss the appeal herein
denied.

Mo. No. 707 SSD 37
Kenneth H. Patten, &c. et al.,
Appellants,
v.
Hamburg OB/GYN Group, P.C., and
Philip Lauria, M.D.,
Respondents.

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

1-10 Mo. No. 608
Helene Provencal-Dayle,
Respondent,
v.
Dwight Dayle,
Appellant.

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

2-10 Mo. No. 584
In the Matter of Marvin Q.
(Anonymous).

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

Nassau County Department of
Social Services,
Respondent;
Rafael Q. (Anonymous),
Appellant;
et al.,
Respondent.
(And Another Proceeding.)

3-10 Mo. No. 581
In the Matter of Sean Ryan,
Appellant,
v.
Donald Selsky, &c.,
Respondent.

Motion for leave to appeal denied.

3-10 Mo. No. 600
In the Matter of Save the Pine
Bush, Inc., et al.,
Appellants,
v.
Planning Board of the Town of
Clifton Park et al.,
Respondents.

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

1-14 Mo. No. 557
Matthew Serino et al.,
Plaintiffs,
v.
Kenneth Lipper, et al.,
Defendants,
Pricewaterhousecoopers, LLP,
Respondent,
Abraham Biderman,
Appellant.

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.

3-10 Mo. No. 1435
Leslie St. Andrew et al., &c.,
Appellants-Respondents,
v.
Ashley K. O'Brien, et al.,
Respondents-Appellants,
Italian Community Center of Troy,
New York, Inc., et al.,
Respondents.

Motion by appellants-respondents for leave
to appeal denied.
Cross motion for leave to appeal, insofar
as brought on behalf of Rose M. O'Brien,
dismissed upon the ground that as to her
timely substitution has not been made
(see CPLR 1021); cross motion otherwise
dismissed upon the ground that the issues
presented have become moot.

1-10 Mo. No. 579
Arthur H. Stevens,
Appellant,
v.
Publicis, S.A. 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 action within the meaning of the
Constitution.

1 Mo. No. 554
Wadsworth Avenue Associates,
 Appellant,
 v.
Paul, Hastings, Janofsky &
Walker, LLP 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 action within the meaning of the
Constitution.

1-10 Mo. No. 582
Shamika Zamore, &c., et al.,
 Appellants,
 v.
Fabio A. Peralta et al.,
 Respondents,
A.J.L. Transportation, Inc.,
 Defendant.

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