

MAY 1, 2008

CASES

3 The People &c., v. Brett Cabrera,	No. 61 Respondent, Appellant.	Order modified by dismissing the three counts of criminally negligent homicide and the count of assault in the third degree and vacating the sentences imposed thereon (see CPL 470.40; 470.20[3]) and, as so modified, affirmed. Opinion by Judge Read. Chief Judge Kaye and Judges Pigott and Jones concur. Judge Graffeo dissents in an opinion in which Judges Ciparick and Smith concur.
2 Jericho Water District, v. One Call Users Council, Inc. et al.,	No. 69 Respondent, Appellants.	Order reversed, with costs, and order of Supreme Court, Nassau County, reinstated. Opinion by Judge Smith. Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Pigott and Jones concur.
1 In the Matter of George Pantelidis, v. New York City Board of Standards and Appeals, et al., Joseph E. Sheehan, et al., Intervenors-Appellants.	No. 129 SSM 6 Respondent, Appellants.	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, in a memorandum. Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

1 No. 59
P.A. Building Company,
 Respondent,
 v.
City of New York,
 Appellant.

Order modified, without costs, by
remitting to Supreme Court, New York
County, for further proceedings in
accordance with the opinion herein and,
as so modified, affirmed.
Opinion by Judge Read.
Chief Judge Kaye and Judges Ciparick,
Grafteo and Pigott concur.
Judge Smith dissents in part in an
opinion in which Judge Jones concurs.

 No. 52
Worth Construction Co., Inc.,
 Respondent,
 v.
Admiral Insurance Company,
 Defendant,
Farm Family Casualty Insurance
Company,
 Appellant.

Order, insofar as appealed from, reversed,
with costs, and order and judgment of
Supreme Court, New York County,
reinstated.
Opinion by Judge Pigott.
Chief Judge Kaye and Judges Ciparick,
Grafteo, Read, Smith and Jones concur.

MOTIONS

- 3 -

Mo. No. 530
AG Capital Funding Partners,
L.P., et al.,
Appellants,
v.
State Street Bank and Trust
Company,
Respondent.
(And Other Actions.)

Motion by American Bankers Association for leave to file a brief amicus curiae on the appeal herein granted. Two copies of the brief must be served and 24 copies filed within seven days.

2-10 Mo. No. 364
The People &c.,
Respondent,
v.
Richard Banks,
Appellant.

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

2-10 Mo. No. 401
Ellen Bluth,
Respondent,
v.
Harvey Bluth,
Appellant.

Motion for reargument of motion for leave to appeal denied.

1-10 Mo. No. 225
Doris Brownley et al.,
Appellants,
v.
Robert Doar, &c.,
Respondent,
et al.,
Defendants.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that affirmed the denial of motions for intervention and preliminary injunctive relief, 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 granted.

4-10 Mo. No. 299
In the Matter of James D.D.,
Respondent,
v.
Patricia A.W.,
Appellant.

Motion for leave to appeal denied.

3-10 Mo. No. 329
In the Matter of Eric Dantzler,
Appellant,
v.
Traci McKane,
Respondent.

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

1-14 Mo. No. 356
Mai-Linh DeVirgilio,
Appellant,
v.
Feller Precision Stage Lifts,
Inc., et al.,
Defendants,
Mamma Mia Broadway Limited
Partners,
Respondent.

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

3-10 Mo. No. 47
In the Matter of Jane Doe et al.,
&c.

Motion for leave to appeal denied.

Albany County Department of
Children, Youth and Families,
Respondent;
Francis TT.,
Appellant.

3-10 Mo. No. 259
James F. Dunne,
Respondent,
v.
Lucy M. Dunne,
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.

Mo. No. 478
The People &c.,
Respondent,
v.
Fritz Elysee,
Appellant.

Motion for assignment of counsel granted
and Lynn W.L. Fahey, Esq., Appellate
Advocates, 2 Rector Street, 10th Floor,
New York, NY 10006 assigned as counsel to
the appellant on the appeal herein.

2-10 Mo. No. 280
In the Matter of Jackson Etienne,
Appellant,
v.
Irmonde Sylvain,
Respondent.
(And Another Proceeding.)

Motion for leave to appeal denied.

1-10 Mo. No. 316
The People &c.,
Respondent,
v.
Roberto Gonzalez,
Appellant.

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

1-10 Mo. No. 272
In the Matter of Linda Gregg,
Appellant,
v.
The Department of Education of
the City of New York,
Respondent.

Motion for leave to appeal denied.

2-11 Mo. No. 302
In the Matter of Juliana Gucu,
Deceased.
Viorika Anka,
Respondent;
John Gucu Roberts,
Appellant.

Motion for leave to appeal dismissed upon
the ground that no motion for leave to
appeal lies from the Appellate Division
order which dismissed an appeal taken from
a decision (see CPLR 5602; Matter of
Mixon v. Clark, 3 NY3d 688 [2004]).

2 Mo. No. 295
In the Matter of John A.J.
Hinspeter,
Appellant,
v.
Rory J. Bellantoni, &c., et al.,
Respondents.

Motion for reargument of motion for leave
to appeal denied.

Mo. No. 487
The People &c., Respondent,
v.
Steven Hobson, Appellant.

Motion for an extension of the time within which to apply for permission to appeal pursuant to CPL 460.20 granted and motion papers treated as a timely CPL 460.20 application.

3-10 Mo. No. 252
The People &c., Respondent,
v.
Theodore M. Jackson, Appellant.

Motion for leave to appeal denied.

4- Mo. No. 314
In the Matter of an Application
for an Order of Conditions
Pursuant to Criminal Procedure
Law Section 330.20, in Relation
to John J., Appellant.

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.

Robert J. Dennison, &c., et al.,
Respondents.

4-10 Mo. No. 327
The People &c., Respondent,
v.
Johnnie R. Jones, Appellant.

Motion for leave to appeal denied.

1-10 Mo. No. 300
The People &c. ex rel. Steven
Jude, Appellant,
v.
Warden, Rikers Island
Correctional Facility et al.,
Respondents.

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

Mo. No. 497 SSD 24
Seth M. Kessler, et al.,
Appellants,
v.
Alan G. Hevesi, New York State
Comptroller, &c., et al.,
Respondents.

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

3- Mo. No. 374
The People &c. ex rel. Kai Kirby,
Appellant,
v.
Brian Fischer, &c.,
Respondent.

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

3- Mo. No. 336
In the Matter of Elvin Lebron,
Appellant,
v.
Dale Artus, &c.,
Respondent.

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

Mo. No. 529
In the Matter of Marty Markowitz,
&c.,
Appellant,
v.
Gregory V. Serio, &c.,
Respondent,
Farmers New Century Insurance
Company, et al.,
Intervenors-Respondents.

Motion by American Insurance Association
et al. for leave to file a brief amici
curiae on the appeal herein granted. Two
copies of the brief must be served and 24
copies filed within seven days.

Mo. No. 310
In the Matter of Kevin Martin,
Appellant,
v.
Glenn S. Goord, as Commissioner
of Correctional Services,
Respondent.
(And Another Related Proceeding.)

Motion for reconsideration of this Court's
February 19, 2008 dismissal order denied.

3- Mo. No. 501
In the Matter of Americo
Martinucci,
Appellant,
v.
Carl F. Becker, &c., et al.,
Respondents.

Motion for leave to appeal denied.

4 Mo. No. 228
The People &c. ex rel. Bruce
Monroe,
Appellant,
v.
James T. Conway, &c.,
Respondent.

Motion for leave to appeal dismissed upon
the ground that this motion for leave to
appeal does not lie from the order of the
individual Justice of the Appellate
Division (see NY Const, art VI, 3[b];
CPLR 5602).

3-10 Mo. No. 325
In the Matter of Philip A.
Morelli,
Appellant,
v.
Diane L. Tucker,
Respondent.

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

1- Mo. No. 244
The People &c.,
Respondent,
v.
Francisco Mosquera,
Appellant.

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

3-10 Mo. No. 324
In the Matter of Maelee N., &c.
Broome County Department of
Social Services,
Respondent;
Shannon O.,
Appellant.

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

2-10 Mo. No. 237
The People &c., Respondent,
v.
Rodney Richardson, Jr.,
Appellant.

Motion for leave to appeal denied.

2-13 Mo. No. 373
John Gucu Roberts, Respondent,
v.
Viorika Vicki Anka, &c.,
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.

4-10 Mo. No. 287
In the Matter of Brandon N.S.

Motion for leave to appeal denied.

Oneida County Department of
Social Services, Respondent;
Francine E.S.,
Appellant.

1-13 Mo. No. 215
In the Matter of Medina Amor S.,
&c., et al.,

Motion for leave to appeal denied.

Omar S., Respondent;
Graham Windham Services to
Families,
Appellant.

3-10 Mo. No. 268
In the Matter of James Schmitt,
Appellant,

Motion for leave to appeal denied.

v.
New York State Department of
Correctional Services,
Respondent.

2-10 Mo. No. 315
The People &c., Respondent,
v.
Willie Scott, Appellant.

Motion for leave to appeal denied.

Mo. No. 423
In the Matter of Leopold Siao-Pao,
Appellant,
v.
Robert Dennison, Chairman,
New York State Division of
Parole, Respondent.

Motion for poor person relief granted.

Mo. No. 334
Kenneth D. Smalley, et al.,
Respondents,
v.
The Dreyfus Corporation, et al.,
Appellants.

Motion for reargument denied with one hundred dollars costs and necessary reproduction disbursements.

4-13 Mo. No. 271
In the Matter of South Blossom
Ventures, LLC, Respondent,
v.
Town of Elma, 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 proceeding within the meaning of the Constitution and is not an order of the type provided for in CPLR 5602(a)(2).

1-10 Mo. No. 255
In the Matter of Street Vendor
Project, &c., et al., Appellants,
v.
City of New York, et al.,
Respondents.

Motion for leave to appeal denied.

