

OCTOBER 23, 2008

CASES

1 No. 145
Craig Crawford,
 Respondent,
 v.
Liz Claiborne, Inc., et al.,
 Appellants.

Order reversed, with costs, case remitted to the Appellate Division, First Department, for further proceedings in accordance with the memorandum herein and certified question answered in the negative.
Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

4 No. 152
Episcopal Diocese of Rochester
et al.,
 Respondents,
 v.
Rev. David Harnish, &c., et al.,
 Appellants,
et al.,
 Defendants.

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

In the Matter of All Saints
Anglican Church, &c.,
 Appellant,
 v.
Episcopal Diocese of Rochester
et al.,
 Respondents.

1 No. 144
Arlene C. Farkas,
 Appellant-Respondent,
 v.
Bruce R. Farkas,
 Respondent-Appellant.

On the appeal by Arlene Farkas, order reversed and order and judgment of Supreme Court, New York County, reinstated, and on the appeal by Bruce Farkas, order, insofar as it brings up for review a prior Appellate Division order, affirmed, with one bill of costs payable to Arlene Farkas.

Opinion by Judge Read.
Chief Judge Kaye and Judges Ciparick, Graffeo, Smith, Pigott and Jones concur on the appeal by Bruce Farkas.

Chief Judge Kaye and Judges Ciparick, Graffeo and Jones concur on the appeal by Arlene Farkas.

Judge Pigott dissents on the appeal by Arlene Farkas and votes to modify in an opinion in which Judge Smith concurs.

1 No. 161
People &c.,
 Respondent,
 v.
Jonathan Jenkins,
 Appellant.

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

1 No. 141
Katz Park Avenue Corp.
 Respondent,
 v.
Bianca Jagger,
 Appellant,
"John Doe," et al.,
 Defendants.

Order affirmed, with costs, and certified question answered in the affirmative.
Opinion by Judge Smith.
Judges Graffeo, Read, Pigott and Jones concur.
Judge Ciparick concurs in result in an opinion.
Chief Judge Kaye took no part.

MOTIONS

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2-10 Mo. No. 925
In the Matter of Allstate
Insurance Company,
Respondent,
v.
Nydia Rivera, et al.,
Appellants.

Motion for leave to appeal granted.

4-10 Mo. No. 998
American Motorists Insurance
Company, &c.,
Appellant,
v.
Louis P. Ciminelli Construction
Co., Inc., &c., et al.,
Respondents.

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

4-10 Mo. No. 1007
In the Matter of Chris
Applewhite,
Appellant,
v.
Brian Fischer, &c.,
Respondent.

Motion for leave to appeal denied.

3-14 Mo. No. 818
Arthur Glick Leasing, Inc.,
Appellant,
v.
William J. Petzold, Inc.,
et al.,
Defendants,
Caterpillar, Inc.,
Respondent.

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

3-10 Mo. No. 988
In the Matter of Gaitree Balram,
Respondent,
v.
Latchman Balram,
Appellant.

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

Mo. No. 1160
The People &c,
Respondent,
v.
Julio Borrell, Also Known as
Julio Cesar Borrell,
Appellant.

Motion for assignment of counsel granted
and Steven Banks, Esq., The Legal Aid
Society, 199 Water Street, New York,
NY 10038 assigned as counsel to the
appellant on the appeal herein.

4-14 Mo. No. 993
In the Matter of Buffalo Teachers
Federation, Inc.,
Appellant-Respondent,
v.
Board of Education of City School
District of City of Buffalo,
Respondent-Appellant.

Motions for leave to appeal denied.

2-10 Mo. No. 972
The People &c.,
Respondent,
v.
Joshua Bynum,
Appellant.

Motion for leave to appeal denied.

2-10 Mo. No. 1008
In the Matter of Brandy Joseph C.
(Anonymous), &c.
Jewish Child Care Association,
Inc.,
Respondent;
Debbie Joan C. (Anonymous), &c.,
Appellant.

Motion for leave to appeal denied.

4-14 Mo. No. 1027
Michael J. Carlson, Sr., &c.,
Appellant,
v.
William M. Porter, et al.,
Respondents,
et al.,
Defendants.

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

3-10 Mo. No. 1026
In the Matter of Viorel Cincu,
Appellant.
Sutton House, Inc.,
Respondent.
Commissioner of Labor,
Respondent.

Motion for reargument of motion for leave
to appeal denied.

2-13 Mo. No. 924
In the Matter of Clarendon
National Insurance Company,
Respondent,
v.
Francisco Nunez, Sr., et al.,
Appellants.

Motion for leave to appeal granted.

2 Mo. No. 1094
In the Matter of David Clinton,
an attorney and counselor-at-law.

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

Grievance Committee for the
Second and Eleventh Judicial
Districts;
Respondent;
David Clinton,
Appellant.

4-11 Mo. No. 982
The People &c. ex rel. Jimmy
Cochran,
Appellant,
v.
Richard A. Savage, &c.,
Respondent.

Motion for leave to appeal denied.

2-10 Mo. No. 968
Serap Coker,
Respondent,
v.
Bakkal Foods, Inc.,
Appellant.

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

1-13 Mo. No. 990
Columbia Energy Group, et al.,
Appellants,
v.
Alexander Fisher, et al.,
Defendants,
Crawford & Company,
Respondent.

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

Mo. No. 1137
John R. Consedine,
Respondent,
v.
Portville Central School
District et al.,
Appellants.

Motion by New York State School Boards 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.

1-10 Mo. No. 1011
Ajet Delaj, et al.,
Appellants,
v.
Kenneth R. Jameson,
Defendant.

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

Mark E. Seitelman Law Offices,
P.C.,
Nonparty-Respondent.

3-14 Mo. No. 1010
Elmira Teachers' Association,
&c., et al.,
Appellants,
Robert Bailey et al.,
Respondents,
v.
Elmira City School District
et al.,
Respondents.
(And Another Action.)

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

2-10 Mo. No. 598
In the Matter of Nicole Gale,
Respondent,
v.
John Lotito III,
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.

1-10 Mo. No. 1038
Anne Grezinsky et al.,
Appellants,
v.
Mount Hebron Cemetery, et al.,
Respondents,
et al.,
Defendant.

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

3- Mo. No. 897
In the Matter of Mike Henriquez,
Appellant,
v.
Keith Dubray, &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 leave to appeal denied. Motion for poor person relief dismissed as academic.

1-10 Mo. No. 916
In the Matter of Lourdes
Hernandez,
Appellant,
v.
Patricia J. Lancaster, &c., et
al.,
Respondents.

Motion for leave to appeal denied.

4-13 Mo. No. 977
Hunt Construction Group, Inc.,
Appellant,
v.
Oneida Indian Nation,
Respondent.

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

Mo. No. 1130 SSD 61
The People &c.,
Respondent,
v.
William Mitchell,
Appellant.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no civil appeal lies from the order of the Appellate Division entered in this criminal proceeding (see NY Const, art VI, 3[b]; CPLR 5601; CPL 450.90).

Mo. No. 929
Shawn Moynihan,
Appellant,
v.
State of New York,
Respondent.

On the Court's own motion, appeal transferred, without costs, to the Appellate Division, Third Department, upon the ground that the direct appeal does not lie (NY Const, art VI, 3[b][2]; 5[b]; CPLR 5601[b][2]).
Motion for poor person relief dismissed as academic.

1-10 Mo. No. 928
In the Matter of Myles N., &c.
Denise N.N.,
Appellant,
Episcopal Social Services,
Respondent.

Motion for leave to appeal denied.

Mo. No. 1122 SSD 60
New York State Crime Victims
Board,
Respondent,
v.
Bruce Lorick,
Appellant.

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

2-13 Mo. No. 748
NYCTL 1999-1 Trust, et al.,
Respondents,
v.
Charles Chalom, et al.,
Defendants,
City of New York, et al.,
Respondents;
Far Rockaway Church of the
Nazarene, Inc.,
Intervenor-Respondent;
Queens Community Realty Inc.,
Nonparty-Appellant.

Motion for leave to appeal denied.

Mo. No. 1146
In the Matter of Omni Recycling
of Westbury, Inc.,
Respondent,
v.
Town of Oyster Bay et al.,
Appellants.

Motion by The Association of Towns of the
State of New York 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.

1 Mo. No. 891
In the Matter of Ronald V.
Pomerance,
Appellant,
v.
Roger Paul McTiernan, Jr., et
al.,
Respondents.

Motion for leave to appeal dismissed upon
the ground that the issues presented have
become moot.

4-14 Mo. No. 882
Precision Auto Accessories, Inc.,
Appellant,
v.
Utica First Insurance Company,
Respondent,
et al.,
Defendants.

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

4-10 Mo. No. 932
In the Matter of Julia R.

Orleans County Department of
Social Services,
Respondent;
Stacee L.,
Appellant,
et al.,
Respondent.

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

Mo. No. 1161
Norma Rose, et al.,
Appellants,
v.
Brown & Williamson Tobacco
Corporation, &c., et al.,
Respondents,
et al.,
Defendant.

Motion by Product Liability Advisory
Council, Inc. for leave to appear amicus
curiae on the appeal herein granted only
to the extent that the proposed brief is
accepted as filed. Two copies of the
brief must be served and 24 copies filed
within seven days.

Mo. No. 1164
Norma Rose, et al.,
Appellants,
v.
Brown & Williamson Tobacco
Corporation, &c., et al.,
Respondents,
et al.,
Defendant.

Motion by Professor James A. Henderson,
Jr. 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.

Mo. No. 1177
Norma Rose, et al.,
Appellants,
v.
Brown & Williamson Tobacco
Corporation, &c., et al.,
Respondents,
et al.,
Defendant.

Motion by Chamber of Commerce of the
United States of America for leave to file
a brief amicus curiae on the appeal
herein granted and the proposed brief is
accepted as filed.

3-10 Mo. No. 1025
Josephine T. Rossi,
Appellant,
v.
Budget Rent a Car/Budget Car and
Truck Rental,
Respondent,
et al.,
Defendants.

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

4-10 Mo. No. 980
In the Matter of Jonathan S.
Cattaraugus County Department of
Social Services,
Respondent;
Crystal L. and James S.,
Appellants.

Motions for leave to appeal denied.

1-10 Mo. No. 960
In the Matter of Saraphina Ameila
S., &c.
Rosa Mary W.,
Appellant;
New Alternatives for Children,
Inc.,
Respondent.

Motion for leave to appeal denied.

4-13 Mo. No. 760
David Simpson, et al.,
Appellants,
v.
Ithaca Gun Company LLC, et al.,
Respondents.

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

4-13 Mo. No. 964
Linda Smalley,
Appellant,
v.
Matthew J. Bemben,
Respondent.

Motion for leave to appeal granted.

