

December 13, 2011

CASES

- 1                    No. 231  
Mindaugas Blaudziunas, et al.,  
    Appellants,  
    v.  
Edward Cardinal Egan, &c.,  
et al.,  
    Respondents.
- Order affirmed, with costs, and certified question not answered as unnecessary.  
Opinion by Judge Jones.  
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith and Pigott concur.
- 2                    No. 237  
The People &c.,  
    Appellant,  
    v.  
Jay Jomar Bradshaw,  
    Respondent.
- Order affirmed.  
Opinion by Judge Ciparick.  
Chief Judge Lippman and Judges Pigott and Jones concur.  
Judge Read dissents in an opinion in which Judges Graffeo and Smith concur.
- 1                    No. 230  
In the Matter of Elrac, Inc., &c.,  
    Appellant,  
    v.  
Birtis Exum,  
    Respondent.
- Order affirmed, with costs, and certified question not answered as unnecessary.  
Opinion by Judge Smith.  
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Pigott and Jones concur.
- No. 223  
The People &c.,  
    Respondent,  
    v.  
Joseph Hightower,  
    Appellant.
- Order reversed and accusatory instrument dismissed.  
Opinion by Chief Judge Lippman.  
Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

1                    No. 246 SSM 42  
The People &c.,  
    Respondent-Appellant,  
    v.  
Akinlowo Omowale,  
    Appellant-Respondent.

On review of submissions pursuant to section 500.11 of the Rules, on defendant's appeal, order affirmed, and People's appeal dismissed, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

## MOTIONS

2                    Mo. No. 2011-1075  
Denis J. Butler,  
    Appellant,  
    v.  
New York City Transit Authority, et al.,  
    Respondents.

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

3                    Mo. No. 2011-1150  
The People &c.,  
    Respondent,  
    v.  
Robert J. Coffey Jr.,  
    Appellant.

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

4                    Mo. No. 2011-1252  
The People &c.,  
    Respondent,  
    v.  
Kevin O. Cooper,  
    Appellant.

Motion for assignment of counsel granted and Timothy P. Donaher, Esq., Monroe County Public Defender, 10 N. Fitzhugh Street, Rochester, NY 14614 assigned as counsel to the appellant on the appeal herein.

3                    Mo. No. 2011-1088  
In the Matter of Feminists Choosing Life of  
New York, Inc., et al.,  
    Appellants,  
    v.  
Empire State Stem Cell Board,  
et al.,  
    Respondents.

Motion for leave to appeal denied.

4                    Mo. No. 2011-1153  
In the Matter of the State of New York,  
Respondent,  
v.  
Daniel Flagg,  
Appellant.

Motion to strike Appendix and Supplemental  
Appendix and to direct appellant to file the record on  
appeal granted and appellant is directed to serve  
three copies of the record on appeal on respondent  
and file the original and eight copies with the Court.

                          Mo. No. 2011-1089  
The People &c.,  
Respondent,  
v.  
Brian Gammon,  
Appellant.

Motion to vacate this Court's September 21, 2011  
preclusion order granted.

2                    Mo. No. 2011-1091  
In the Matter of Thomas G. (Anonymous),  
Appellant.

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

2                    Mo. No. 2011-1099  
Elio Garcia, Jr.,  
Respondent,  
v.  
New York City Transit Authority et al.,  
Appellants.

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

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New York City Transit Authority,  
Third-Party Appellant,  
v.  
Marco Loja,  
Third-Party Respondent.

1                    Mo. No. 2011-903  
Arsim Kameraj,  
    Appellant,  
    v.  
Haim Joseph,  
    Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2011-1087  
Richard K. Kearns et al.,  
    Appellants,  
    v.  
Mary Thilburg,  
    Respondent.

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

3                    Mo. No. 2011-1030  
James Knapp et al.,  
    Respondents-Appellants,  
    v.  
James R. Hughes, et al.,  
    Appellants-Respondents.

Motion by defendants for leave to appeal granted. Motion by plaintiffs for leave to appeal dismissed upon the ground that it does not lie, plaintiffs previously having moved for leave to appeal to the Court of Appeals from the January 2006 Appellate Division order from which leave to appeal is currently sought (7 NY3d 921 [2006]). Moreover, no motion by plaintiffs for leave to appeal would lie to this Court from the July 2011 Supreme Court judgment to bring up for review the January 2006 Appellate Division order as plaintiffs have appealed that judgment to the Appellate Division and simultaneous appeals do not lie to both the Appellate Division and the Court of Appeals (see Parker v Rogerson, 35 NY2d 751, 753 [1974]).

1                    Mo. No. 2011-1097  
In the Matter of Eddie James Lee,  
                  Appellant,  
          v.  
Mohawk Time Allowance Committee, et al.,  
                  Respondents.  
(And Another Action.)

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

1                    Mo. No. 2011-1005  
The People &c.,  
                  Appellant,  
          v.  
Rafael Lora,  
                  Respondent.

Motion to dismiss the appeal granted and the appeal  
dismissed upon the ground that the reversal by the  
Appellate Division was not "on the law alone or  
upon the law and such facts which, but for the  
determination of law, would not have led to reversal"  
(CPL 450.90[2][a]).

2                    Mo. No. 2011-1221  
In the Matter of O. (Anonymous),  
                  Respondent,  
          v.  
M. (Anonymous),  
                  Appellant.

Motion for leave to appeal granted.  
Motion for a stay granted.

3                    Mo. No. 2011-1085  
In the Matter of Eric Pettaway,  
                  Appellant,  
          v.  
Eric Savage,  
                  Respondent.  
(And Another Proceeding.)

Motion for leave to appeal denied.

2                    Mo. No. 2011-1299  
Regional Economic Community Action  
Program, Inc.,  
                  Appellant,  
          v.  
Enlarged City School District of Middletown,  
                  Respondent.

Motion by New York State School Boards  
Association, Inc. for leave to file a brief amicus  
curiae on the appeal herein granted and the proposed  
brief is accepted as filed. Two copies of the brief  
must be served and 24 copies filed within seven  
days.

1                    Mo. No. 2011-1100  
In the Matter of James Reynolds,  
                  Appellant,  
          v.  
Queens County Board of Elections, et al.,  
                  Respondents.

Motion for leave to appeal denied.

3                    SSD 55  
In the Matter of Justo Richards,  
                  Appellant,  
          v.  
Andrew M . Cuomo, Attorney General of the  
State of New York,  
                  Respondent.

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

3                    Mo. No. 2011-933  
In the Matter of Luis Rosales,  
                  Appellant,  
          v.  
Norman R. Bezio, &c.,  
                  Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2011-1270  
In the Matter of Stephen Rosenblum,  
                  Respondent,  
          v.  
The New York City Conflicts of Interest  
Board, et al.,  
                  Appellants.

Motion by Citizens Union of the City of New York  
for leave to appear amicus curiae on the appeal  
herein granted only to the extent that the proposed  
brief is accepted as filed.

1                    Mo. No. 2011-1271  
In the Matter of Stephen Rosenblum,  
                         Respondent,  
                         v.  
The New York City Conflicts of Interest  
Board, et al.,  
                         Appellants.

Motion by Association of the Bar of the City of New York for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed.

4                    Mo. No. 2011-1130  
Joseph B. Sitts,  
                         Appellant,  
                         v.  
Allison L. Sitts,  
                         Respondent.

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

1                    Mo. No. 2011-1019  
Orlando Toro,  
                         Appellant,  
                         v.  
Plaza Construction Corp., et al.,  
                         Respondents.  
(And a Third-Party Action.)

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

2                    Mo. No. 2011-1184  
The People &c.,  
                         Respondent,  
                         v.  
Julio Velez,  
                         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.

4                    Mo. No. 2011-1093  
In the Matter of Christopher S. Young,  
                         Appellant,  
                         v.  
Hon. Francis A. Affronti, &c., et al.,  
                         Respondents.

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

2                    Mo. No. 2011-1090  
Raymond Young,  
    Appellant,  
    v.  
Jennifer Campbell, et al.,  
    Respondents.

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