

November 22, 2011

CASES

2 No. 207
David Adler et al.,
 Appellants,
 v.
Pincus Bayer et al.,
 Respondents.

Order reversed, with costs, defendants' motion for judgment as a matter of law denied, and case remitted to the Appellate Division, Second Department, for consideration of issues raised but not determined on the appeal to that court.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Pigott and Jones concur.

4 No. 209
The People &c.,
 Appellant,
 v.
Raymond Clyde,
 Respondent.

Order, reversing County Court's judgment, reversed and case remitted to the Appellate Division, Fourth Department, for consideration of the facts and issues raised but not determined on the appeal to that court from the judgment; order, affirming County Court's order, reversed and case remitted to Cayuga County Court for sentencing on the conviction of attempted rape in the first degree.
Opinion by Judge Pigott.
Judges Graffeo, Read and Smith concur.
Chief Judge Lippman dissents and votes to affirm in an opinion in which Judges Ciparick and Jones concur.

2 No. 210
The People &c.,
 Respondent,
 v.
Geraldo Cruz,
 Appellant.

Order reversed and a new trial ordered, in a memorandum.
Judges Graffeo, Read, Smith and Pigott concur.
Chief Judge Lippman concurs in result in an opinion in which Judges Ciparick and Jones concur.

1 No. 184
The People &c., by Andrew M. Cuomo,
Attorney General of the State of New York,
Respondent,
v.
First American Corporation, et al.,
Appellants.

Order affirmed, with costs, and certified question
answered in the affirmative.
Opinion by Judge Ciparick.
Chief Judge Lippman and Judges Graffeo, Smith,
Pigott and Jones concur.
Judge Read dissents and votes to reverse in an
opinion.

1 No. 213
The People &c.,
Appellant,
v.
Chris McAlpin,
Respondent.

Order affirmed, in a memorandum.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Smith and Jones concur.
Judge Pigott dissents in an opinion.

2 No. 206
Joseph Perl, et al.,
Appellants,
v.
Mehmood Meher, et al.,
Respondents.

Order reversed, with costs, and order of Supreme
Court, Kings County, reinstated.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Pigott and Jones concur.

2 No. 211
The People &c.,
Respondent,
v.
Sherman Rivers,
Appellant.

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

3 No. 204
Mikhail Tkeshelashvili et al.,
Appellants,
v.
State of New York,
Respondent.

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

1 No. 208

Sheila Travis,
Appellant,
Barry J. Moonan, et al.,
Plaintiffs,

v.

Nassirou M. Batchi, et al.,
Respondents.

Order affirmed, with costs.

Opinion by Judge Smith.

Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Pigott and Jones concur.

MOTIONS

1 Mo. No. 2011-993
22 CPS Owner LLC,
 Respondent,
 v.
Jason D. Carter &c., et al.,
 Appellants,
22 House, LLC, et al.,
 Defendants.

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 (see Burke v Crosson, 85 NY2d 10, 18 n 5 [1995]).

3 Mo. No. 2011-990
In the Matter of Angela Adams,
 Appellant,
 v.
Gladys Carrion, &c.,
 Respondent.

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

4 Mo. No. 2011-1081
The People &c.,
 Respondent,
 v.
Anthony Attea,
 Appellant.

Motion to vacate this Court's September 12, 2011 preclusion order granted.

3 Mo. No. 2011-1053
The People &c. ex rel. Julio C. Borrell,
 Appellant,
 v.
New York State Board of Parole,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2011-1084
The People &c. ex rel. Juan Candelaria,
Appellant,
v.
Robert Kirkpatrick, &c.,
Respondent.

Motion for leave to appeal denied.

3 SSD 54
In the Matter of Clinton County et al.,
Petitioners,
Towns of Broadalbin et al.,
Appellants,
v.
Adirondack Park Agency et al.,
Respondents.
(And Another Action/Proceeding.)

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

1 Mo. No. 2011-1000
Collegiate Asset Management Corp.,
Respondent,
v.
45 John Mezzanine, LLC, et al.,
Appellants.

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

3 Mo. No. 2011-1106
In the Matter of Community Related Services,
Inc.,
Appellant,
v.
Karen M. Carpenter-Palumbo, &c., et al.,
Respondents.

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

3 Mo. No. 2011-1054
Mykelti Cunningham, &c.,
Appellant,
v.
John K. Anderson,
Respondent.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order which affirmed Supreme Court's denial of plaintiff's post-judgment motion, 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 denied.

3 Mo. No. 2011-1062
In the Matter of Robert A. Dilello,
Appellant,
v.
Thomas P. DiNapoli, &c.,
Respondent.

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

2 Mo. No. 2011-1083
In the Matter of Sinclair Haberman et al.,
Respondents,
v.
Zoning Board of Appeals of City of Long
Beach, et al.,
Appellants,
et al.,
Defendant.

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

1 Mo. No. 2011-1049
Harlem Real Estate LLC, et al.
Appellants,
v.
New York City Economic Development
Corporation, et al.,
Respondents.

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

4 Mo. No. 2011-1016
Tina M. Holstein,
 Respondent,
 v.
Community General Hospital of Greater
Syracuse,
 Appellant.

Motion to dismiss appeal denied.

1 Mo. No. 2011-1104
Maryann Imperato, et al.,
 Respondents,
 v.
The Mount Sinai Medical Center, et al.,
 Appellants.

Motion to vacate this Court's September 26, 2011
preclusion order granted.

1 Mo. No. 2011-1041
IRB-Brazil Resseguros, S.A.,
 Respondent,
 v.
Inepar Investments, S.A.,
 Defendant,
Inepar S.A. Industria e Construcoes,
 Appellant.

Motion for leave to appeal granted.

2 Mo. No. 2011-1055
In the Matter of Richard Lazzari,
 Respondent,
 v.
Town of Eastchester, et al.,
 Appellants,
Paula Redd Zeman, &c., et al.
 Respondents.

Motion for leave to appeal granted.

4 Mo. No. 2011-1034
The People &c.,
 Respondent,
 v.
Gary D. Litzenberger,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2011-1042
Marshall Investments Corporation, et al.,
 Appellants,
 v.
Harrah's Operating Company, Inc., &c., 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.

2 Mo. No. 2011-1067
Parker Waichman Alonso, LLP,
 Appellant,
 v.
Paul Ajlouny, &c., et al.,
 Respondents.

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

1 Mo. No. 2011-1058
Isaiah Rodriguez, &c.,
 Appellant,
 v.
New York City Health and Hospitals
Corporation (Jacobi Medical Center),
 Respondent,
et al.,
 Defendants.

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

1 Mo. No. 2011-1064
Elena Strujan,
 Appellant,
 v.
Teperman & Teperman, et al.,
 Respondents.

Motion for leave to appeal dismissed upon the ground that the Court of Appeals does not have jurisdiction to entertain it (see NY Const, art VI, § 3; CPLR 5602).

Motion for poor person relief dismissed as academic. Cross motion to strike pages 8-10 in Exhibit 10 of plaintiff's motion papers granted and this material is deemed stricken.

3 Mo. No. 2011-1071
In the Matter of Injah Tafari,
 Appellant,
 v.
David A. Rock, &c.,
 Respondent.
Appellate Division No. 511747

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

3 Mo. No. 2011-1072
In the Matter of Injah Tafari,
 Appellant,
 v.
David A. Rock, &c.,
 Respondent.
Appellate Division No. 511746

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.

2 Mo. No. 2011-1068
In the Matter of Andrew William V.
(Anonymous).

Westchester County Department of Social
Services,
 Respondent;
Chantal Jean G. (Anonymous),
 Appellant.
(And Another Proceeding.)

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as granted the renewed motion of assigned counsel to be relieved, dismissed upon the ground that such portion of the order does not finally determine the proceedings within the meaning of the Constitution; motion for leave to appeal otherwise denied.

1 SSD 52
Ying Jing Yan,
 Respondent,
 v.
Ke-en Wang,
 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.

4 Mo. No. 2011-1077
Mahmood Yoonessi et al.,
 Appellants,
 v.
Debra L. Givens,
 Respondent.

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