

November 18, 2010

**CASES**

4                    No. 189  
Michael Aquino,  
                    Appellant,  
                    v.  
Michael Higgins,  
                    Defendant,  
John Higgins et al.,  
                    Respondents.

Order, insofar as appealed from,  
reversed, with costs, and the fourth  
cause of action against defendants John  
and Heather Higgins reinstated, in a  
memorandum.  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read, Smith, Pigott  
and Jones concur.

                    No. 180  
John Giordano,  
                    Appellant,  
                    v.  
Market America, Inc. and The  
Chemins Company, Inc.,  
                    Respondents.

Following certification of questions by  
the United States Court of Appeals for  
the Second Circuit and acceptance of  
the questions by this Court pursuant to  
section 500.27 of the Rules of Practice  
of the New York State Court of Appeals,  
and after hearing argument by counsel  
for the parties and consideration of  
the briefs and the record submitted,  
certified questions answered in  
accordance with the opinion herein.  
Opinion by Judge Smith.  
Chief Judge Lippman and Judges Ciparick  
and Jones concur.  
Judge Read dissents in an opinion in  
which Judges Graffeo and Pigott concur.

2                    No. 191  
The People &c.,  
                    Respondent,  
                    v.  
Mordekhay Levy,  
                    Appellant.

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

3                   No. 181  
In the Matter of New York State  
United Teachers,  
                  Respondent,  
          v.  
Brighter Choice Charter School  
et al.,  
                  Appellants.

Order reversed, with costs, and that  
part of the petition seeking disclosure  
of the names of the teachers,  
instructors and faculty employed by the  
charter schools denied.  
Opinion by Judge Pigott.  
Judges Graffeo, Read and Smith concur.  
Judge Ciparick dissents in an opinion  
in which Chief Judge Lippman and Judge  
Jones concur.

2                   No. 187  
Judith Nostrom, &c.,  
                  Appellant,  
          v.  
A.W. Chesterton Company, et al.,  
                  Defendants,  
Central Hudson Gas & Electric  
Corporation, et al.,  
                  Respondents.

Order, insofar as appealed from,  
affirmed, with costs.  
Opinion by Judge Graffeo.  
Judges Ciparick, Smith, Pigott and  
Jones concur.  
Chief Judge Lippman and Judge Read took  
no part.

1                   No. 183  
The People &c.,  
                  Respondent,  
          v.  
Gregory Taylor,  
                  Appellant.

Order reversed, the first count of the  
indictment dismissed and a new trial  
ordered on the second count of the  
indictment charging manslaughter in the  
first degree.  
Opinion by Judge Jones.  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read, Smith and  
Pigott concur.

**MOTIONS**

2                    Mo. No. 2010-1083  
Gregory A. Beroza,  
                    Appellant,  
                    v.  
Michele A. Hendler,  
                    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.

2                    Mo. No. 2010-1078  
Margaret Bryan,  
                    Appellant,  
                    v.  
City of Peekskill et al.,  
                    Respondents.

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

3                    Mo. No. 2010-1034  
In the Matter of Kathleen F.  
Cappellino,  
                    Appellant,  
                    v.  
Baumann & Sons Bus Company  
et al.,  
                    Respondents.  
Workers' Compensation Board,  
                    Respondent.

Motion for leave to appeal granted.

2                    Mo. No. 2010-1080  
In the Matter of Nina Dakin,  
                    Respondent,  
                    v.  
James Dakin, Jr.,  
                    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                   Mo. No. 2010-1040  
John Davis, &c.,  
                  Appellant,  
                  v.  
The City of New York, et al.,  
                  Respondents,  
et al.,  
                  Defendant.

Motion for leave to appeal denied.

2                   Mo. No. 2010-1061  
Diane Euvino,  
                  Appellant,  
                  v.  
Joseph Rauchbauer, et al.,  
                  Respondents.

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

3                   SSD 69  
Pauline Guntlow,  
                  Respondent,  
                  v.  
Marc Barbera, et al.,  
                  Defendants,  
Police Officer Sgt. Anthony Ryan  
et al.,  
                  Appellants.

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                   Mo. No. 2010-1042  
Shpetim Hajderlli,  
                  Appellant,  
                  v.  
Wiljohn 59 LLC, et al.,  
                  Respondents.  
(And a Third-Party Action.)

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

3                   Mo. No. 2010-1062  
In the Matter of David W. Howard,  
                  Respondent,  
                  v.  
Stature Electric, Inc., et al.,  
                  Appellants.  
Workers' Compensation Board,  
                  Respondent.

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. 2010-1108                    Motion for leave to appeal denied.  
The People &c.,  
                         Respondent,  
                         v.  
Ronald Iorio,  
                         Appellant.

1                    Mo. No. 2010-1047                    Motion for leave to appeal denied.  
Eric T. Martin,  
                         Appellant,  
                         v.  
The Triborough Bridge and Tunnel  
Authority,  
                         Respondent,  
The City of New York,  
                         Defendant.

3                    Mo. No. 2010-1015                    Motion for leave to appeal denied.  
In the Matter of Kevin Mitchell,  
                         Appellant,  
                         v.  
William Brown, &c., et al.,  
                         Respondents.

2                    Mo. No. 2010-1066                    Motion for leave to appeal denied with  
Jennifer Moore, &c., et al.,                    one hundred dollars costs and  
                         Appellants,                    necessary reproduction disbursements.  
                         v.  
City of New York, et al.,  
                         Respondents.

2                    Mo. No. 2010-1119                    Motion for leave to appeal dismissed  
New York Community Bank,  
                         Respondent,  
                         v.  
Jay Vermonty, &c., et al.,  
                         Defendants,  
Dave Sheldon, &c., et al.,  
                         Appellants.

2                    Mo. No. 2010-1081  
In the Matter of Adam Ramos, Also  
Known as Angelo Ramos,  
                          Appellant,  
                  v.  
William J. Connolly, &c.,  
                          Respondent.

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

2                    Mo. No. 2010-1077  
In the Matter of Southwinds  
Retirement Home, Inc.,  
                          Respondent,  
                  v.  
City of Middletown, et al.,  
                          Appellants.

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

2                    Mo. No. 2010-1076  
Sara Springer, &c., et al.,  
                          Appellants,  
                  v.  
Dhabah (also known as Debbie)  
Almontaser,  
                          Respondent.

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

1                    Mo. No. 2010-1067  
In the Matter of Stahl York  
Avenue Company LLC,  
                          Appellant,  
                  v.  
The City of New York, et al.,  
                          Respondents.

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

1                    Mo. No. 2010-1049  
Superb General Contracting,  
                          Appellant,  
                  v.  
The City of New York,  
                          Respondent,  
et al.,  
                          Defendants.

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

1                   Mo. No. 2010-1124  
U.S. Electronics, Inc.,  
                  Appellant,  
          v.  
Sirius Satellite Radio, Inc.,  
                  Respondent.

Motion for leave to appeal granted.

3                   SSD 70  
In the Matter of Town of  
Waterford,  
                  Appellant,  
          v.  
New York State Department of  
Environmental Conservation,  
                  Respondent.

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

3                   Mo. No. 2010-1057  
In the Matter of Douglas B.  
Worth,  
                  Appellant,  
          v.  
Brian Fischer, &c.,  
                  Respondent.

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.