

June 02, 2011

CASES

1 No. 102
In the Matter of Rachel Cohn,
 Appellant,
 v.
Board of Education of the City
School District of the City of
New York, et al.,
 Respondents.

Order affirmed, with costs, and
certified question not answered upon
the ground that it is unnecessary, in a
memorandum.
Chief Judge Lippman and Judges
Ciparick, Graffeo, Read, Smith, Pigott
and Jones concur.

2 No. 85
Margaret Groninger,
 Appellant,
 v.
Village of Mamaroneck,
 Respondent.

Order affirmed, with costs, and
certified question not answered upon
the ground that it is unnecessary.
Opinion by Judge Pigott.
Judges Graffeo, Read and Smith concur.
Chief Judge Lippman dissents in an
opinion in which Judges Ciparick and
Jones concur.

1 No. 180 SSM 20
Wendy Hazen,
 Appellant,
 v.
The Board of Education of City
School District of City of New
York, et al.,
 Respondents.

On review of submissions pursuant to
section 500.11 of the Rules, order
affirmed, with costs (see Matter of
Hickey v New York City Department of
Education, __ NY3d __ [decided today]).
Chief Judge Lippman and Judges
Ciparick, Graffeo, Read, Smith, Pigott
and Jones concur.

1 No. 101
In the Matter of Helen Hickey,
 Appellant,
 v.
New York City Department of
Education,
 Respondent.

Order affirmed, with costs, and
certified question not answered upon
the ground that it is unnecessary, in a
memorandum.
Chief Judge Lippman and Judges
Ciparick, Graffeo, Read, Smith, Pigott
and Jones concur.

4 No. 103
The People &c.,
 Respondent,
 v.
Shawn Hunter,
 Appellant.

Order reversed and case remitted to the Appellate Division, Fourth Department, for consideration of issues raised but not determined on the appeal to that court, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

2 No. 115
Anthony Marraccini,
 Appellant,
 v.
John Ryan, et al.,
 Respondents,
et al.,
 Defendants.

Order, insofar as appealed from, reversed, with costs, and defendants' motion for summary judgment denied. Opinion by Judge Smith. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Pigott and Jones concur.

3 No. 100
The People &c.,
 Appellant,
 v.
Marcos A. Fernandez,
 Respondent.

Order, insofar as appealed from, affirmed. Opinion by Judge Ciparick. Judges Read, Smith, Pigott and Jones concur. Judge Graffeo dissents and votes to reverse in an opinion in which Chief Judge Lippman concurs.

2 No. 94
In the Matter of Arthur J. Walsh,
et al.,
 Respondents,
 v.
Anita S. Katz, et al.,
 Respondents,
Daniel C. Ross,
 Appellant.
(And a Third-Party Action.)

Order, insofar as appealed from, affirmed, without costs. Opinion by Judge Jones. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith and Pigott concur.

MOTIONS

1 Mo. No. 2011-593
The People &c.,
 Respondent,
 v.
Hans Alexander,
 Appellant.

Motion for assignment of counsel granted and Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, NY 10006 assigned as counsel to the appellant on the appeal herein.

4 Mo. No. 2011-343
Mark L. Benesh et al.,
 Appellants,
 v.
Karen A. Courtney et al.,
 Respondents.

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

1 Mo. No. 2011-367
Bleecker Street Tenants Corp.,
 Respondent,
 v.
Bleeker Jones LLC, et al.,
 Appellants,
et al.,
 Defendants.

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

3 Mo. No. 2011-366
In the Matter of Otilia
Caballero,
 Appellant,
 v.
Fabco Enterprises et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

Motion for reargument of motion for leave to appeal denied.

4 Mo. No. 2011-361
W. James Camperlino,
Appellant,
v.
Town of Manlius Municipal
Corporation, et al.,
Respondents,
Benita Rogers, et al.,
Intervenors-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. Judge Pigott took no part.

2 Mo. No. 2011-375
Jeanette Chirico,
Respondent,
v.
Joel Amaker,
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. Motion for poor person relief dismissed as academic.

4 Mo. No. 2011-346
In the Matter of Michael Drennen,
&c.,
Respondent,
v.
City of Buffalo, et al.,
Appellants.

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

4 Mo. No. 2011-341
The People &c.,
Respondent,
v.
Roger L. Hueber,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2011-279
The People &c.,
Respondent,
v.
Philip King,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2011-284
Doris Krieger et al.,
 Appellants,
 v.
McDonald's Restaurant of New
York, Inc., et al.,
 Respondents.

Michael Rucker,
 Appellant,
 v.
McDonald's Restaurant of New
York, Inc., et al.,
 Respondents.

4 Mo. No. 2011-380
In the Matter of Martin Luther
Nursing Home, Inc.,
 Appellant,
 v.
Michael J. Dowling, &c., et al.,
 Respondents.

4 Mo. No. 2011-360
Joseph Montesano, &c., et al.,
 Respondents,
 v.
Floyd A. Madison, &c., et al.,
 Appellants.

1 Mo. No. 2011-468
The People &c.,
 Respondent,
 v.
Jorge Pagan,
 Appellant.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the actions within the meaning of the Constitution (see Cuadrado v New York City Tr. Auth., lv dismissed 14 NY3d 748 [2010]).
Judge Pigott took no part.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Judge Pigott took no part.

Motion, insofar as it seeks leave to appeal from the Appellate Division order that affirmed the Supreme Court order granting in part respondents' motion for an order of contempt against appellants, dismissed upon the ground that such order sought to be appealed from does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

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.

3 Mo. No. 2011-373
In the Matter of Sue Ann
Paivanas,
 Appellant,
 v.
The Resource Center et al.,
 Respondents,
Workers' Compensation Board,
 Respondent.

Motion for reargument of motion for
leave to appeal denied.

2 Mo. No. 2011-595
The People &c.,
 Appellant,
 v.
James F. Phillips,
 Respondent.

Motion for assignment of counsel
granted and Mark Diamond, Esq., Box
287356 Yorkville Station, New York, NY
10128 assigned as counsel to the
respondent on the appeal herein.

3 Mo. No. 2011-240
In the Matter of Mildred Powell,
 Appellant.
Commissioner of Labor,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2011-392
In the Matter of Putnam/Northern
Westchester Board of Cooperative
Educational Services, et al.,
 Respondents,
 v.
Westchester County Human Rights
Commission and Kathe McBride,
 Appellants.

Motions for leave to appeal granted.

3 Mo. No. 2011-377
In the Matter of Randolph Rossi,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

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

2 Mo. No. 2011-362
In the Matter of Latrell S.
(Anonymous).

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

Suffolk County Department of
Social Services,
 Respondent;
Christine K. (Anonymous),
 Appellant.
(And Another Proceeding.)

1 Mo. No. 2011-523
The People &c.,
 Appellant,
 v.
Gilberto Sosa,
 Respondent.

Motion for assignment of counsel
granted and Robert S. Dean, Esq.,
Center for Appellate Litigation, 74
Trinity Place, 11th Floor, New York,
NY 10006 assigned as counsel to the
respondent on the appeal herein.

4 Mo. No. 2011-369
State Farm Mutual Automobile
Insurance Companies,
 Respondent,
 v.
Zachary J. Jaenecke, et al.,
 Defendants.
Peter J. Jaenecke,
 Appellant.

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

2 Mo. No. 2011-322
Telcar Group, Ltd., &c.,
 Plaintiff,
 v.
Telcar Certified, Ltd., et al.,
 Defendants.

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

Telcar Certified, Ltd., et al.,
 Third-Party Appellants,
 v.
Angelo Mignone,
 Third-Party Respondent.

1 Mo. No. 2011-590
U.S. Electronics, Inc.,
 Appellant,
 v.
Sirius Satellite Radio, Inc.,
 Respondent.

Motion by The 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. Two copies of the brief must be served and 19 copies filed within seven days.

2 Mo. No. 2011-256
Viking Capital Partners, LLC,
 Respondent,
 v.
Enterprise Bay Ridge, LLC,
et al.,
 Defendants;
Sycamore Realty Corp.,
 Nonparty;
James K. Noonan,
 Nonparty-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 Mo. No. 2011-524
The People &c.,
 Respondent,
 v.
Frederick E. Walker,
 Appellant.

Motion for assignment of counsel granted and James S. Hinman, Esq., 16 East Main Street, Suite 260, Rochester, NY 14614 assigned as counsel to the appellant on the appeal herein.