

June 23, 2011

**CASES**

No. 91  
Commodity Futures Trading  
Commission,  
Respondent,  
v.  
Stephen Walsh, et al.,  
Defendants,  
Janet Walsh,  
Appellant.

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Securities and Exchange  
Commission,  
Respondent,  
v.  
WG Trading Investors, L.P., et  
al.,  
Defendants,  
Robin Greenwood,  
Relief Defendant,  
Janet Walsh,  
Appellant.

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 Graffeo. Chief Judge Lippman and Judges Ciparick, Read and Jones concur. Judge Pigott dissents in part in an opinion in which Judge Smith concurs.

2 No. 125  
The People &c.,  
Respondent,  
v.  
Richard D. DiGuglielmo,  
Appellant.

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

4 No. 97  
Farrah Donald,  
Appellant,  
v.  
State of New York,  
Respondent.

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

3                    No. 140    SSM 24  
Shakira Eanes,  
                    Appellant,  
                    v.  
State of New York,  
                    Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs.  
Opinion by Judge Smith.  
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Pigott and Jones concur.

3                    No. 141    SSM 25  
Jonathan Orellanes,  
                    Appellant,  
                    v.  
State of New York,  
                    Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs.  
Opinion by Judge Smith.  
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Pigott and Jones concur.

3                    No. 142    SSM 26  
Ismael Ortiz, Also Known As Jose Rodriguez,  
                    Appellant,  
                    v.  
State of New York,  
                    Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs.  
Opinion by Judge Smith.  
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Pigott and Jones concur.

1                    No. 99  
The RGH Liquidating Trust, &c.,  
                    Appellant,  
                    v.  
Deloitte & Touche LLP et al.,  
                    Respondents.

Order, insofar as appealed from, reversed, with costs, order of Supreme Court, New York County, reinstated, and certified question answered in the negative.  
Opinion by Judge Read.  
Chief Judge Lippman and Judges Ciparick, Graffeo, Pigott and Jones concur.  
Judge Smith dissents and votes to affirm in an opinion.

1                   No. 127  
In the Matter of World Trade  
Center Bombing Litigation.

Steering Committee, et al.  
                  Respondents,

v.

The Port Authority of New York  
and New Jersey,  
                  Appellant.

Reargument ordered and case set down  
for argument on August 24, 2011.  
Judges Ciparick, Graffeo, Read, Pigott  
and Jones concur.  
Chief Judge Lippman and Judge Smith  
took no part.

**MOTIONS**

4                   Mo. No. 2011-460  
10 Ellicott Square Court  
Corporation, &c. et al.,  
                  Appellants,  
                  v.  
Violet Realty, Inc., et al.,  
                  Respondents.

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

2                   Mo. No. 2011-494  
In the Matter of Ahmed A., &c.,  
                  Appellant.

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

3                   SSD 22  
In the Matter of Carrie B.,  
                  Appellant,  
                  v.  
Josephine B.,  
                  Respondent.

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

3                   Mo. No. 2011-451  
In the Matter of Bela Borcsok,  
                  Appellant,  
                  v.  
New York State Board of Parole,  
                  Respondent.

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

4                   Mo. No. 2011-425  
The People &c.,  
                  Respondent,  
                  v.  
Tobias Boyland,  
                  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. 2011-480  
In the Matter of Loki C. et al.

Motion for leave to appeal denied.  
Judge Pigott took no part.

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Cattaraugus County Department of  
Social Services,  
                          Respondent;  
Ronnie C.,  
                          Respondent;  
Carol C.,  
                          Appellant.

2                    Mo. No. 2011-446  
In the Matter of Gale Lee Davis,  
                          Appellant,  
                          v.  
City of New York Comptroller,  
et al.,  
                          Respondents.

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

2                    Mo. No. 2011-445  
Dental Health Associates,  
et al.,  
                          Appellants,  
                          v.  
Ali Zangeneh,  
                          Respondent,  
et al.,  
                          Defendants.

Motion for leave to appeal denied.

2                    SSD 23  
Alice Laraine Dimery,  
                          Appellant,  
                          v.  
Ulster Savings Bank,  
                          Respondent.

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.

2                    Mo. No. 2011-469  
The People &c.,  
                          Respondent,  
                          v.  
Michael Dunn,  
                          Appellant.

Motion for leave to appeal denied.

2                   Mo. No. 2011-441  
Sylvia Flaim,  
                  Appellant,  
                  v.  
Hex Food, Inc., &c., et al.,  
                  Respondents,  
et al.,  
                  Defendants.

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

1                   Mo. No. 2011-602  
The People &c.,  
                  Respondent,  
                  v.  
Corey Gamble,  
                  Appellant.

Motion by appellant pro se to relieve Richard M. Greenberg, Office of the Appellate Defender, as counsel to the appellant herein denied.

4                   Mo. No. 2011-520  
Arlene S. Garland, &c.,  
                  Appellant,  
                  v.  
RLI Insurance Company,  
                  Respondent,  
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 within the meaning of the Constitution.

2                   Mo. No. 2011-618  
The People &c.,  
                  Respondent,  
                  v.  
William George,  
                  Appellant.

Motion for assignment of counsel granted and Lynn W. L. Fahey, Esq., Appellate Advocates, 2 Rector Street, 10th Floor, New York, NY 10006 assigned as counsel to the appellant on the appeal herein.

4                   Mo. No. 2011-449  
In the Matter of Norman E. Green,  
                  Respondent,  
                  v.  
Jacqueline Bontzolakes,  
                  Appellant,  
(And Other Proceedings.)

Motion for leave to appeal denied.

2                    Mo. No. 2011-316  
Town of Huntington,  
                    Respondent,  
                    v.  
County of Suffolk,  
                    Appellant.

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

3                    Mo. No. 2011-409  
In the Matter of Ariane I.,  
                    Appellant,  
                    v.  
David I.,  
                    Respondent.  
(And Two Other Related  
Proceedings.)

Motion for leave to appeal denied.

4                    Mo. No. 2011-461  
In the Matter of Tommy R.  
Jackson,  
                    Appellant,  
                    v.  
William Walsh, Onondaga County  
Court Judge and William  
Fitzpatrick, Onondaga County  
District Attorney,  
                    Respondents.

Motion to vacate this Court's March  
31, 2011 dismissal order granted and  
appeal reinstated.  
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.

                    Mo. No. 2011-444  
The People &c. ex rel. Valrick  
Johnson,  
                    Appellant,  
                    v.  
Joseph E. McCoy, Superintendent,  
&c.,  
                    Respondent.

Motion for reargument of motion for  
leave to appeal dismissed as untimely  
(see Rules of Ct of Appeals [22 NYCRR]  
§ 500.24[b]).  
Motion for poor person relief  
dismissed as academic.  
Judge Pigott took no part.

1                   Mo. No. 2011-670  
The People &c.,  
                    Respondent,  
                    v.  
Saleem Khan,  
                    Appellant.

Motion, pursuant to CPL 460.60(3), to extend the time for argument or submission of the appeal and to continue the stay granted and stay continued until determination of the appeal.

3                   Mo. No. 2011-428  
In the Matter of Luyster Creek,  
LLC,  
                    Appellant,  
                    v.  
New York State Public Service  
Commission,  
                    Respondent,  
Consolidated Edison Company of  
New York, Inc.,  
                    Respondent.

Motion for leave to appeal granted.  
Chief Judge Lippman took no part.

2                   Mo. No. 2011-437  
In the Matter of Ana Beatriz  
Marin, &c., deceased.  
  
Carla Marin, et al.,  
                    Respondents;  
Debra Marin,  
                    Appellant.

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

4                   Mo. No. 2011-464  
The People &c. ex rel. David  
McCullough,  
                    Appellant,  
                    v.  
New York State Division of  
Parole,  
                    Respondent.

Motion for leave to appeal denied.  
Judge Pigott took no part.

2                    Mo. No. 2011-462  
Margarita Morales,  
                          Appellant,  
                          v.  
Perfect Dental, P.C., et al.,  
                          Respondents.

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as affirmed the July 2009 Supreme Court order, 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.

1                    Mo. No. 2011-493  
In the Matter of Doreen Nash,  
                          Appellant,  
                          v.  
The Board of Education of the  
City School District of the City  
of New York, et al.,  
                          Respondents.

Motion for leave to appeal granted.

4                    Mo. No. 2011-471  
In the Matter of the State of New  
York,  
                          Respondent,  
                          v.  
James High,  
                          Appellant.

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

4                    Mo. No. 2011-458  
In the Matter of County of  
Niagara,  
                          Respondent,  
                          v.  
Richard F. Daines, &c., et al.,  
                          Appellants.

Motion for leave to appeal denied.

1                    Mo. No. 2011-411  
Corlette O'Bryan, et al.,  
                          Appellants,  
                          v.  
Martha E. Stark, &c., et al.,  
                          Respondents.

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

2                   Mo. No. 2011-357  
In the Matter of Deshawn D.O.  
(Anonymous).

Administration for Children's  
Services,

                  Respondent;  
Maria T.O. (Anonymous),  
                  Respondent,  
Sidney O. (Anonymous),  
                  Appellant.

Motion for leave to appeal dismissed  
upon the ground that the order sought  
to be appealed from, affirming the  
fact-finding order, does not finally  
determine the proceeding within the  
meaning of the Constitution.

2                   SSD 24  
Town of Oyster Bay,  
                  Appellant,  
                  v.  
Galen D. Kirkland, &c., et al.  
                  Respondents.

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

2                   Mo. No. 2011-608  
The People &c.,  
                  Appellant,  
                  v.  
James Perry,  
                  Respondent.

Motion for assignment of counsel  
granted and Lynn W. L. Fahey, Esq.,  
Appellate Advocates, 2 Rector Street,  
10th Floor, New York, NY 10006  
assigned as counsel to the respondent  
on the appeal herein.

2                   Mo. No. 2011-342  
In the Matter of Conrad Pons,  
                  Appellant,  
                  v.  
Anthony J. Annucci, &c.,  
                  Respondent.

Motion, insofar as it seeks leave to  
appeal from the Appellate Division  
order denying poor person relief,  
dismissed upon the ground that such  
order does not finally determine the  
proceeding within the meaning of the  
Constitution; motion for leave to  
appeal otherwise denied.

1                   Mo. No. 2011-450  
In the Matter of Richard Ronga,  
                  Appellant,  
                  v.  
Joel I. Klein, &c., et al.,  
                  Respondents.

Motion for leave to appeal denied.

4                   Mo. No. 2011-463  
John T. Siwula,  
                  Appellant,  
                  v.  
Town of Hornellsville et al.,  
                  Respondents.

Motion for leave to appeal denied.

4                   Mo. No. 2011-470  
In the Matter of Todd M. Smith,  
                  Respondent,  
                  v.  
Hon. James C. Tormey, &c.,  
                  Respondent,  
County of Onondaga et al.,  
                  Appellants.

Motion for leave to appeal granted.  
Chief Judge Lippman took no part.

2                   Mo. No. 2011-629  
The People &c.,  
                  Respondent,  
                  v.  
Raoul South,  
                  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.

3                   Mo. No. 2011-457  
In the Matter of County of St.  
Lawrence,  
                  Respondent,  
                  v.  
Richard Daines, &c., et al.,  
                  Appellants.

Motion for leave to appeal denied.

4                   Mo. No. 2011-465  
In the Matter of the Estate of  
Kevin W. Stanley, Deceased.

Diane R. Stanley, &c.,  
                  Appellant;  
Lawrence J. Mattar, Esq., &c., et  
al.,  
                  Respondents.

On the Court's own motion, appeal dismissed, without costs, upon the ground that the March 2011 Surrogate's Court order appealed from does not finally determine the proceeding within the meaning of the Constitution.  
Motion for leave to appeal dismissed, without costs, upon the ground that the March 2011 Surrogate's Court order sought to be appealed from does not finally determine the proceeding within the meaning of the Constitution.

3                   Mo. No. 2011-442  
In the Matter of Trestin T., &c.

Cortland County Department of  
Social Services,  
                  Respondent;  
Shawn U.,  
                  Appellant.  
(And Another Related Proceeding.)

Motion for leave to appeal denied.

1                   Mo. No. 2011-466  
Veritas Capital Management,  
L.L.C., et al.,  
                  Plaintiffs,  
                  v.  
Thomas J. Campbell,  
                  Defendant.

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.

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Thomas J. Campbell,  
                  Appellant,  
                  v.  
Robert B. McKeon,  
                  Respondent,  
et al.,  
                  Defendants.

2                   Mo. No. 2011-422  
Sherrie Weaver,  
                    Claimant,  
David Sheps, &c.,  
                    Appellant,  
                    v.  
State of New York,  
                    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.

1                   Mo. No. 2011-642  
The People &c.,  
                    Respondent,  
                    v.  
Tony William,  
                    Appellant.

Motion for assignment of counsel granted and Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, NY 10007 assigned as counsel to the appellant on the appeal herein.

1                   Mo. No. 2011-410  
Myron Zuckerman,  
                    Respondent,  
                    v.  
Sydell Goldstein, et al.,  
                    Appellants.

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.