

November 17, 2011

CASES

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| 3
In the Matter of Michelle Birnbaum,
Appellant,
v.
New York State Department of Labor et al.,
Respondents. | No. 196 | Order reversed, with costs, and judgment of Supreme Court, Albany County, reinstated.
Opinion by Judge Pigott.
Chief Judge Lippman and Judges Ciparick, Graffeo, Read and Jones concur.
Judge Smith dissents and votes to affirm in an opinion. |
| 2
The People &c.,
Respondent,
v.
Sebastian Delamota,
Appellant. | No. 188 | Order reversed and a new trial ordered to be preceded by an independent source hearing.
Opinion by Judge Graffeo.
Judges Ciparick, Read and Pigott concur.
Chief Judge Lippman dissents and votes to reverse and dismiss the indictment in an opinion in which Judges Smith and Jones concur. |
| 4
John Gronski et al.,
Appellants,
v.
County of Monroe,
Respondent. | No. 192 | Order reversed, with costs, and defendant's motion for summary judgment denied.
Opinion by Judge Ciparick.
Chief Judge Lippman and Judges Graffeo and Jones concur.
Judge Pigott dissents and votes to affirm in an opinion in which Judges Read and Smith concur. |

3 No. 191
In the Matter of the Arbitration between
Johnson City Professional Firefighters Local
921 et al.,
 Respondents,
 and
Village of Johnson City,
 Appellant.
(Proceeding No. 1.)

In the Matter of the Arbitration between
Village of Johnson City,
 Appellant,
 and
Johnson City Firefighters Association, Local
921 IAFF,
 Respondent.
(Proceeding No. 2.)

1 No. 193
The City School District of the City of New
York,
 Appellant,
 v.
Colleen McGraham,
 Respondent.

1 No. 186
The People &c.,
 Respondent,
 v.
Juan Medina,
 Appellant.

Order reversed, with costs, application to stay
arbitration granted, and application to compel
arbitration denied.
Opinion by Judge Pigott.
Judges Graffeo, Read and Smith concur.
Judge Ciparick dissents and votes to affirm in an
opinion in which Chief Judge Lippman and Judge
Jones concur.

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

Order reversed and a new trial ordered.
Opinion by Chief Judge Lippman.
Judges Ciparick, Graffeo, Read, Smith, Pigott and
Jones concur.

3 No. 195
In the Matter of Thomas Sheeran,
 Appellant,
 v.
New York State Department of Transportation
et al.,
 Respondents.

 No. 245
In the Matter of the consideration of the
suspension of Hon. Lafayette D. Young, Jr.,
from the office of Justice of the Macomb
Town Court, St. Lawrence County.

Order reversed, with costs, and judgment of Supreme
Court, Albany County, reinstated.
Opinion by Judge Pigott.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read and Jones concur.
Judge Smith dissents and votes to affirm in an
opinion.

On the Court's own motion, it is determined that
Honorable Lafayette D. Young, Jr. is suspended, with
pay, effective immediately, from the office of Justice
of the Macomb Town Court, St. Lawrence County,
pending disposition of his request for review of a
determination by the State Commission on Judicial
Conduct.
Chief Judge Lippman and Judges Ciparick, Graffeo,
Read, Smith, Pigott and Jones concur.

MOTIONS

2 Mo. No. 2011-1059

Anderson Alexander,
Appellant,

v.

City of New York,
Respondent.

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

3 Mo. No. 2011-1020

In the Matter of the Foreclosure of Tax Liens
by County of Broome.

County of Broome,
Respondent;

Douglas H. Ritter,
Appellant,

et al.,

Respondent.

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

1 Mo. No. 2011-1040

Thomas Cotter, et al.,
Appellants,

v.

Pal & Lee Inc., et al.,
Respondents,

2379 8th Corp., et al.,
Defendants.

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

3 Mo. No. 2011-1065

In the Matter of Jack Davis,
Appellant,

v.

Brian Fischer &c., et al.,
Respondents.

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

2 Mo. No. 2011-1063
Susan M. Denaro,
Respondent,
v.
Robert J. Denaro,
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. 2011-1031
The People &c.,
Respondent,
v.
Michael J. DiFalco,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2011-1021
In the Matter of Miladin Dobric,
Appellant,
v.
Park Len North Owner, Inc.,
et al.,
Respondents.

Motion for leave to appeal dismissed upon the ground that the Court does not have jurisdiction to entertain it.

1 Mo. No. 2011-1032
Claudia Evert,
Appellant,
v.
Park Avenue Chiropractic, P.C. et al.,
Respondents.

Motion for leave to appeal denied.
Cross motion for the imposition of sanctions denied.

3 Mo. No. 2011-1026
In the Matter of Vector Foiltec, LLC, et al.,
Appellants,
v.
State University Construction Fund et al.,
Respondents.

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

1 Mo. No. 2011-1060
Gladstein & Isaac, et al.,
 Respondents,
 v.
Philadelphia Indemnity Insurance Company,
 Appellant.

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

2 Mo. No. 2011-1046
The People &c.,
 Respondent,
 v.
Russell Harding,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2011-919
In the Matter of Ithaca City School District,
 Appellant,
 v.
New York State Division of Human Rights et
al.,
 Respondents.

Motion for leave to appeal granted.

3 Mo. No. 2011-832
In the Matter of Jonathan Katz,
 Appellant,
 v.
Board of Regents of the University of the
State of New York et al.,
 Respondents.

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

1 Mo. No. 2011-1029
Lance International, Inc.,
 Appellant,
 v.
First National City Bank,
 Respondent.

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain this motion for leave to appeal from the order of the Appellate Division where the appeal to the Appellate Division was from an order entered on an appeal from another court (see NY Const, art VI, § 3[b][7]; CPLR 5602[a]).

2 Mo. No. 2011-1018
In the Matter of Medical Express Ambulance Corp., et al.,
 Respondents,
 v.
Galen D. Kirkland, &c., et al.,
 Respondents,
New York State Division of Human Rights,
 Appellant.

Motion for leave to appeal denied.

3 SSD 49
In the Matter of Anthony P. Messina,
 Respondent,
 v.
Hudson News Company et al.,
 Appellants,
et al.,
 Respondent.
Workers' Compensation Board,
 Respondent.

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

4 Mo. No. 2011-1038
The People &c.,
 Respondent,
 v.
Kenneth W. Neuer,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2011-992
Town of Oyster Bay,
Appellant,
v.
Galen D. Kirkland, &c., et al.
Respondents.

Motion for leave to appeal granted.

3 Mo. No. 2011-1024
The People &c. ex rel. Justo Richards,
Appellant,
v.
Bruce Yelich, &c.,
Respondent.

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.

2 Mo. No. 2011-1050
In the Matter of Michael Seidel et al.,
Appellants,
v.
Patricia Prendergast, &c.,
et al.,
Respondents,
Town of Orangetown, et al.,
Respondents.

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

3 Mo. No. 2011-1037
In the Matter of Donald Self,
Appellant,
v.
Norman Bezio, &c.,
Respondent.

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

2 Mo. No. 2011-1066
In the Matter of Aaron Taylor,
Appellant,
v.
Michael Aloise, &c., et al.,
Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2011-1043
Carmen Tejada,
 Respondent,
 v.
Cherise M. Dyal, M.D., 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.

1 Mo. No. 2011-986
Whitebox Concentrated Convertible Arbitrage
Partners, L.P., et al.,
 Appellants,
 v.
Superior Well Services, Inc.,
 Respondent.

Motion for leave to appeal granted.

4 Mo. No. 2011-1022
In the Matter of Leon Wright,
 Appellant,
 v.
Gloria Veniszee,
 Respondent.

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