

June 07, 2012

**CASES**

2                    No. 101  
Chazon, LLC,  
    Respondent,  
    v.  
Margaret Maugenest,  
    Appellant,  
et al.,  
    Defendants.

Order reversed, with costs, and the complaint dismissed.  
Opinion by Judge Smith.  
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Pigott and Jones concur.

2                    No. 113  
The People &c.,  
    Respondent,  
    v.  
Kevin Chestnut,  
    Appellant.

Order reversed and a new trial ordered.  
Opinion by Judge Jones.  
Chief Judge Lippman and Judges Ciparick and Pigott concur.  
Judge Read dissents and votes to affirm in an opinion in which Judges Graffeo and Smith concur.

4                    No. 99  
The People &c.,  
    Respondent,  
    v.  
Ramon Flores,  
    Appellant.

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

2                    No. 94  
The People &c.,  
    Respondent,  
    v.  
Feoid Haffiz,  
    Appellant.

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

2                    No. 95  
In the Matter of New York City Transit  
Authority,  
                  Appellant,  
          v.  
New York State Public Employment  
Relations Board et al.,  
                  Respondents.

Judgment affirmed, with costs, in a memorandum.  
Chief Judge Lippman and Judges Ciparick, Graffeo  
and Read concur.  
Judge Smith dissents in an opinion in which Judge  
Pigott concurs.  
Judge Jones took no part.

4                    No. 98  
The People &c.,  
                  Respondent,  
          v.  
David Plunkett,  
                  Appellant.

Order modified by dismissing the count of the  
indictment charging aggravated assault upon a police  
officer or peace officer, and remitting to Herkimer  
County Court for resentencing and, as so modified,  
affirmed.  
Opinion by Chief Judge Lippman.  
Judges Ciparick, Graffeo, Read, Smith, Pigott and  
Jones concur.

3                    No. 103  
In the Matter of Hailey ZZ., &c.  
  
Tompkins County Department of Social  
Services,  
                  Respondent;  
Ricky ZZ.,  
                  Appellant.

Order affirmed, without costs.  
Opinion by Judge Read.  
Chief Judge Lippman and Judges Ciparick, Graffeo,  
Smith and Jones concur.  
Judge Pigott dissents and votes to reverse in an  
opinion.

## MOTIONS

4                    Mo. No. 2012-410  
Isidro Abascal,  
    Appellant,  
    v.  
State of New York,  
    Respondent.

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

1                    Mo. No. 2012-361  
Isaac Ainetchi, et al.,  
    Appellants,  
    v.  
500 West End LLC,  
    Respondent.

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

2                    Mo. No. 2012-341  
In the Matter of Ramon M. Aquino,  
    Respondent,  
    v.  
Jaclyn F. Antongiorgi,  
    Appellant.  
(And Other Proceedings.)

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

3                    Mo. No. 2012-350  
In the Matter of Phillip P. Battease,  
    Appellant,  
    v.  
Washington County Support Collection Unit,  
et al.,  
    Respondents.

Motion for leave to appeal denied.

1                    Mo. No. 2012-428  
Cynthia A. Bell,  
    Appellant,  
    v.  
24-26 East 82nd Street Corporation, et al.,  
    Respondents.

Motion for reargument denied.

3                    Mo. No. 2012-257  
In the Matter of Norman Bezio, &c.,  
    Respondent,  
    v.  
Leroy Dorsey,  
    Appellant.

Motion for leave to appeal granted.

1                    Mo. No. 2012-421  
Mayra Bonilla, et al.,  
    Appellants,  
    v.  
Mohammed Abdullah, 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.

4                    Mo. No. 2012-403  
Victoria J. Cannon et al.,  
    Appellants,  
    v.  
Tina M. Giordano, et al.,  
    Defendants,  
Larry Snyder, et al.,  
    Respondents.

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

2                    Mo. No. 2012-345  
Gwendolyn Clarke,  
    Appellant,  
    v.  
Paul K. Clarke,  
    Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2012-400  
Country Service, Inc., et al.,  
Appellants,  
v.  
Feiden & Associates, P.C.,  
et al.,  
Respondents.

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

2 Mo. No. 2012-420  
Giuseppe D'Andrea,  
Appellant,  
v.  
Stella Koutsopetras, et al.,  
Defendants,  
Ultimate Car Wash, et al.,  
Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2012-461  
Donald Felix,  
Respondent,  
v.  
Law Office of Thomas F. Liotti,  
Appellant.

Motion for reargument of motion for leave to appeal denied.  
Motion for a stay dismissed as academic.

4 Mo. No. 2012-402  
The People &c.,  
Respondent,  
v.  
Robert J. Fullen,  
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2012-316  
Shawn Green,  
Appellant,  
v.  
State of New York,  
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2012-373  
Philip E. Hubbard, Jr. et al.,  
Appellants,  
v.  
County of Madison et al.,  
Respondents.

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

2 Mo. No. 2012-367  
Susan F. Jones,  
Respondent,  
v.  
Nicholas A. Jones,  
Appellant.

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

1 Mo. No. 2012-405  
K2 Investment Group, LLC, et al.,  
Respondents-Appellants,  
v.  
American Guarantee & Liability Insurance  
Company,  
Appellant-Respondent.

On the Court's own motion, appeal by respondents-appellants dismissed, without costs, upon the ground that the dissent at the Appellate Division is not on a question of law in favor of respondents-appellants (see CPLR 5601[a]).  
Motion by respondents-appellants for leave to appeal granted.

3 SSD 24  
In the Matter of Leon R. Koziol, &c.,  
Appellant,  
v.  
Martha Walsh Hood, &c., et al.,  
Respondents.

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.

3 Mo. No. 2012-349  
In the Matter of Steven Lashway,  
Appellant,  
v.  
Brian Fischer, &c.,  
Respondent.

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

2                    Mo. No. 2012-374  
In the Matter of Vincent Modafferi, &c.,  
                          Respondent,  
                          v.  
Manhattan and Bronx Surface Transit  
Operating Authority,  
                          Appellant.

Motion for leave to appeal denied.

4                    Mo. No. 2012-321  
In the Matter of Makayla L.P.  
  
Steuben County Department of Social  
Services,  
                          Respondent;  
Alecia M.P.,  
                          Respondent;  
David S.,  
                          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.

4                    SSD 25  
In the Matter of Willard Saperston,  
                          Appellant,  
                          v.  
Heather Holdaway,  
                          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. 2012-250  
The People &c.,  
                          Respondent,  
                          v.  
Wayne L. Smith,  
                          Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2012-327  
Louis A. Terminello, et al.,  
                  Appellants,  
          v.  
Village of Piermont, &c.,  
                  Respondent,  
et al.,  
                  Defendants.

Motion to dismiss appeal granted and appeal dismissed, with four hundred dollars costs and one hundred dollars costs of motion, upon the ground that no substantial constitutional question is directly involved.

3                    Mo. No. 2012-357  
Donald Waddell,  
                  Appellant,  
          v.  
Boyce Thompson Institute for Plant Research,  
Inc.,  
                  Respondent.

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

1                    Mo. No. 2012-365  
In the Matter of Jessica W.  
  
Sandra A.H., et al.,  
                  Respondents,  
          v.  
Josefina M., &c.,  
                  Appellant.

Motion for leave to appeal denied.

4                    Mo. No. 2012-501  
The People &c.,  
                  Appellant,  
          v.  
Damien Warren,  
                  Respondent.

Motion to vacate this Court's April 25, 2012 preclusion order granted.