

March 22, 2012

CASES

1 No. 33
Abacus Federal Savings Bank,
 Appellant,
 v.
ADT Security Services, Inc.,
et al.,
 Respondents,
Holmes Protection of New York, Inc., et al.,
 Defendants.

Order modified, without costs, by reinstating so much of plaintiff's cause of action for breach of contract as against ADT Security Services, Inc. that does not assert claims on behalf of plaintiff's safe deposit box customers and, as so modified, affirmed.
Opinion by Judge Ciparick.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Jones concur.

2 No. 54
In the Matter of Jeffrey Baker,
 Respondent,
 v.
Poughkeepsie City School District, et al.,
 Appellants.

Order affirmed, with costs.
Opinion by Judge Jones.
Chief Judge Lippman and Judges Ciparick and Graffeo concur.
Judge Pigott dissents and votes to reverse in an opinion in which Judges Read and Smith concur.

2 No. 45
The People &c.,
 Respondent,
 v.
Padraic Keating,
 Appellant.

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

1 No. 47
The People &c.,
 Appellant,
 v.
Jason Mack,
 Respondent.

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

1 No. 34
The People &c. ex rel. Shaun McManus,
 Appellant,
 v.
Martin F. Horn, &c.,
 Respondent.

Order reversed, without costs, the proceeding converted to a declaratory judgment action and judgment granted declaring in accordance with the opinion herein.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Ciparick, Read, Smith, Pigott and Jones concur.

4 No. 60
The People &c.,
 Appellant,
 v.
Jeffery H. Miller,
 Respondent.

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

1 No. 42
The People &c.,
 Respondent,
 v.
Sergio Rodriguez,
 Appellant.

Order affirmed.
Opinion by Judge Pigott.
Judges Graffeo, Read and Smith concur.
Chief Judge Lippman dissents in part and votes to modify in an opinion in which Judges Ciparick and Jones concur.

3 No. 50
In the Matter of Town of Waterford,
 Appellant,
 v.
New York State Department of
Environmental Conservation,
 Respondent.

Judgment appealed from and order of the Appellate Division brought up for review modified, with costs to petitioner, in accordance with the opinion herein and, as so modified, affirmed.
Opinion by Chief Judge Lippman.
Judges Ciparick, Graffeo, Smith, Pigott and Jones concur.
Judge Read took no part.

MOTIONS

3 Mo. No. 2011-1220
In the Matter of Raymond Alvarez,
Appellant,
v.
New York State Division of Parole,
Chairman,
Respondent.

Motion to vacate this Court's October 24, 2011
dismissal order denied.

2 Mo. No. 2012-10
In the Matter of Jamel
Raheem B.(Anonymous).

Motion for leave to appeal denied.

Nassau County Department of Social
Services,
Respondent;
Vernice B. (Anonymous),
Appellant.
(And Another Proceeding.)

3 Mo. No. 2012-184
The People &c.,
Respondent,
v.
Timothy Bush,
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.

1 Mo. No. 2012-16
Juliette DeJoie Cadichon, et al.,
Appellants,
v.
Thomas Facelle M.D., et al.,
Respondents.

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

2 Mo. No. 2012-328
Chazon, LLC,
 Respondent,
 v.
Margaret Maugenest,
 Appellant,
et al.,
 Defendants.

Motion by Lower Manhattan Loft Tenants for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Two copies of the brief must be served and 19 copies filed within seven days.

1 Mo. No. 2012-267
In the Matter of Chinese Staff and Workers'
Association, et al.,
 Appellants,
 v.
Amanda M. Burden, as Director of the New
York City Department of City Planning, et al.,
 Respondents.

Motion by Natural Resources Defense Council et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed.

4 Mo. No. 2011-1379
In the Matter of Erin DeVogelaere,
 Appellant,
 v.
Webster Zoning Board of Appeals,
 Respondent.

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

2 Mo. No. 2011-1319
Keith Doland et al.,
 Appellants,
 v.
James L. Stephenson, et al.,
 Respondents,
et al.,
 Defendants.
(And Another Action.)

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

2 Mo. No. 2012-56

Paul Eldridge, &c.,
Respondent,

v.

Carmel Central School District Board of
Education, et al.,
Appellants.

Motion for reargument of motion for leave to appeal
denied.

2 Mo. No. 2011-1316

Griffin's Landscaping Corporation (Corp.),
Respondent,

v.

Philip F. Bisesto,
Appellant.

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

3 Mo. No. 2012-48

In the Matter of Zebadiah Hart,
Appellant,

v.

Brian Fischer, &c.,
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2012-305

In the Matter of Ithaca City School District,
Appellant,

v.

New York State Division of Human Rights et
al.,
Respondents.

Motion by Advocates for Children of New York, Inc.
et al. for leave to appear amici curiae on the appeal
herein granted only to the extent that the proposed
brief is accepted as filed. Two copies of the brief
must be served and 19 copies filed within seven
days.

3 Mo. No. 2012-311
In the Matter of Ithaca City School District,
 Appellant,
 v.
New York State Division of Human Rights et
al.,
 Respondents.

Motion by New York State School Boards
Association, Inc. 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.

3 Mo. No. 2012-7
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.)

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

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

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

3 Mo. No. 2012-46
In the Matter of Terry P. Kaler,
 Appellant,
 v.
Thomas P. DiNapoli, &c., et al.,
 Respondents.

1 Mo. No. 2012-45
Victor K. Kiam III et al.,
Appellants,
v.
Park & 66th Corporation, et al.,
Respondents.

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

1 Mo. No. 2012-201
William I. Koch,
Appellant,
v.
Acker, Merrall & Condit Company,
Respondent.

Motion by Pacific Legal Foundation for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Judge Smith took no part.

2 Mo. No. 2012-198
The People &c.,
Respondent,
v.
Eugene G. LaPierre,
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. 2011-1324
The People &c.,
Respondent,
v.
Cornell Long,
Appellant.

Motion for leave to appeal granted.

2 Mo. No. 2011-1291
The People &c.,
Respondent,
v.
Terrance Monk,
Appellant.

Motion for assignment of counsel granted and Scott B. Tulman, Esq., 369 Lexington Avenue, 15th Floor, New York, NY 10017 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2011-1351
The People &c.,
 Respondent,
 v.
Terrance Monk,
 Appellant.

Motion to vacate this Court's November 30, 2011
dismissal order granted.

3 Mo. No. 2012-22
In the Matter of Jonathan NN., &c.

Motion for leave to appeal denied.

Chemung County Department of Social
Services,
 Respondent;
Michelle OO.,
 Appellant.
(And Another Related Proceeding.)

3 Mo. No. 2011-1288
In the Matter of Juan Nunez,
 Appellant,
 v.
Norman R. Bezio, &c.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2012-27
James J. Reilly, et al.,
 Appellants,
 v.
Garden City Union Free School District,
 Respondent.

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

4 Mo. No. 2012-315
In the Matter of Todd M. Smith,
 Respondent,
 v.
Hon. James C. Tormey, &c.,
 Respondent,
County of Onondaga et al.,
 Appellants.

 Mo. No. 2012-242
The People &c.,
 Appellant,
 v.
Jeanne M. Vandover,
 Respondent.

2 Mo. No. 2012-229
In the Matter of Town of Wallkill,
 Respondent,
 v.
Civil Service Employees Association, Inc.
(Local 1000, AFSCME, AFL-CIO, Town of
Wallkill Police Department Unit, Orange
County Local 836), et al.,
 Appellants.

4 Mo. No. 2012-206
The People &c.,
 Appellant,
 v.
Damien Warren,
 Respondent.

Motion by New York State Association of Criminal
Defense Lawyers 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.
Chief Judge Lippman took no part.

On the Court's own motion, Matthew S. Lerner, Esq.,
granted leave to appear as amicus curiae on the
appeal herein.

Motion by New York State Public Employment
Relations Board for leave to orally argue as amicus
curiae on the appeal herein denied.

Motion for assignment of counsel granted and
Michael L. D'Amico, Esq., 484 Delaware Avenue,
Buffalo, NY 14202 assigned as counsel to the
respondent on the appeal herein.

4 Mo. No. 2012-80
Paula White, &c.,
 Respondent,
 v.
Dennis Farrell et al.,
 Appellants.

Motion for leave to appeal granted.

3 Mo. No. 2012-269
In the Matter of Hailey ZZ., &c.

Tompkins County Department of Social
Services,
 Respondent;
Ricky ZZ.,
 Appellant.

Motion by Monroe County Department of Social Services 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.

3 Mo. No. 2012-306
In the Matter of Hailey ZZ., &c.

Tompkins County Department of Social
Services,
 Respondent;
Ricky ZZ.,
 Appellant.

Motion by Saratoga County Department of Social Services et al. for leave to appear amici curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Two copies of the brief must be served and 19 copies filed within seven days.