

June 25, 2013

CASES

1 No. 86
Tiffany Applewhite, &c., et al.,
 Respondents,
 v.
Accuhealth, Inc., et al.,
 Defendants,
City of New York,
 Appellant.

Order affirmed, with costs, and certified question answered in the affirmative.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Read and Rivera concur.
Judge Smith concurs in result in an opinion in which Judge Pigott concurs.
Judge Abdus-Salaam concurs in result in a separate opinion.

2 No. 129
The People &c.,
 Respondent,
 v.
Jean Cantave,
 Appellant.

Order reversed and a new trial ordered.
Opinion by Chief Judge Lippman.
Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

1 No. 63
The People of the State of New York by
Andrew M. Cuomo, &c.,
 Respondent,
 v.
Maurice R. Greenberg, et al.,
 Appellants.

Order, insofar as appealed from, affirmed, with costs, and certified question answered in the affirmative.
Opinion by Judge Smith.
Judges Graffeo, Read, Pigott, Rivera, Abdus-Salaam and Mastro concur.
Chief Judge Lippman took no part.

Executive Plaza, LLC,
Appellant,
v.
Peerless Insurance Company,
Respondent.

Certification of question by the United States Court of Appeals for the Second Circuit, pursuant to section 500.27 of this Court's Rules of Practice, accepted and the issues presented are to be considered after briefing and argument.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

1 No. 125
The People &c.,
Respondent,
v.
Lester Q. Jones,
Appellant.

Order affirmed.
Opinion by Judge Pigott.
Judges Graffeo, Read and Smith concur.
Chief Judge Lippman dissents in an opinion in which Judge Rivera concurs.
Judge Abdus-Salaam took no part.

1 No. 208 SSM 16
In the Matter of Jean Lang,
Appellant,
v.
Raymond Kelly, &c., et al.,
Respondents.

On review of submissions pursuant to section 500.11 of the Rules of the Court of Appeals, order affirmed, with costs, and certified question not answered on the ground that it is unnecessary, in a memorandum.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Rivera concur.
Judge Abdus-Salaam took no part.

2 No. 130
The People &c.,
Respondent,
v.
Tawond Leach,
Appellant.

Order affirmed, in a memorandum.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

MOTIONS

3 Mo. No. 2013-462
Accurate Realty, LLC,
Respondent,
v.
Samuel C. Donadio, et al.,
Appellants.

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

2 Mo. No. 2013-434
In the Matter of Allstate Insurance Company,
Appellant,
v.
New York Petroleum Association
Compensation Trust, &c.,
Respondent.

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

1 Mo. No. 2013-348
In the Matter of Perry Bellamy,
Appellant,
v.
New York City Police Department,
Respondent.

Motion for reargument denied.
Judges Rivera and Abdus-Salaam took no part.

3 Mo. No. 2013-439
In the Matter of Lekan J. Bowen,
Appellant.
Commissioner of Labor,
Respondent.

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.

2 Mo. No. 2013-481
Alexander Breytman,
 Appellant,
 v.
Roberta S. Schechter, &c.,
et al.,
 Respondents,
et al.,
 Defendant.

Motion for leave to appeal dismissed for failure to demonstrate timeliness as required by the Rules of the Court of Appeals (22 NYCRR § 500.22[b][2]). Motion for poor person relief &c. dismissed as academic.

4 Mo. No. 2013-465
Llord Byron Brooks, III, et al.,
 Appellants,
 v.
AXA Advisors, LLC et al.,
 Respondents.

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

1 Mo. No. 2013-478
CDR Creances S.A.S., &c.,
 Respondent,
 v.
Maurice Cohen,
 Appellant,
et al.,
 Defendants.

Motion for leave to appeal granted. Judge Abdus-Salaam took no part.

CDR Creances S.A.S., &c.,
 Respondent,
 v.
Leon Cohen, &c., et al.,
 Appellants,
et al.,
 Defendants.

2 Mo. No. 2013-468
Catherina Lorena Cenzon-Decarlo,
 Appellant,
 v.
Mount Sinai Hospital, &c.,
et al.,
 Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2013-431
In the Matter of John DeRaffele,
 Appellant,
 v.
The State of New York Banking Department,
 Respondent.

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

2 Mo. No. 2013-587
The People &c.,
 Appellant,
 v.
Jermaine Dunbar,
 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.

3 Mo. No. 2013-447
In the Matter of Easylink Services
International, Inc.,
 Appellant,
 v.
New York State Tax Appeals Tribunal et al.,
 Respondents.

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

1 Mo. No. 2013-460
Kate Gaffney,
 Appellant,
 v.
City of New York, et al.,
 Respondents.

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

2 Mo. No. 2013-446
In the Matter of Kimberly J.G. (Anonymous).

Westchester County Department of Social
Services,
 Respondent;
Chantel J.G.V. (Anonymous),
 Appellant.
(And Another Proceeding.)

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the proceedings within the meaning of the Constitution.

1 Mo. No. 2013-641
The People &c.,
 Respondent,
 v.
Victor Gonzalez,
 Appellant.

Motion for assignment of counsel granted and V. Marika Meis, The Bronx Defenders, 360 East 161st Street, Bronx, NY 10451 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2013-440
Mary Jean Mezzina Hannigan,
 Appellant,
 v.
John Hannigan,
 Respondent.

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

1 Mo. No. 2013-540
The People &c.,
 Respondent,
 v.
Harold Jones,
 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.
Judge Abdus-Salaam took no part.

1 Mo. No. 2013-583
In the Matter of John Kapon,
et al.,
 Appellants,
 v.
William I. Koch,
 Respondent.

Motion for leave to appeal granted.
Motion for a stay granted.
Judge Smith took no part.

2 Mo. No. 2013-589
The People &c.,
 Appellant,
 v.
Collin F. Lloyd-Douglas,
 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.

4 Mo. No. 2013-476
Paul Marinaccio, Sr.,
 Respondent,
 v.
Town of Clarence,
 Defendant,
Kieffer Enterprises, Inc.,
 Appellant.

Motion for reargument &c. denied.
Judges Rivera and Abdus-Salaam took no part.

3 Mo. No. 2013-304
In the Matter of Anthony Medina,
 Appellant,
 v.
Albert Prack, &c.,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2013-443
In the Matter of Anthony Medina,
 Appellant,
 v.
New York State Department of Correctional
Services,
 Respondent.

Motion for leave to appeal denied.

Mo. No. 2013-651
The People &c.,
Respondent,
v.
Raymond Michael,
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.

2 Mo. No. 2013-558
Town of Oyster Bay,
Appellant,
v.
Lizza Industries, Inc.,
Respondent.
(And Other Actions.)

Motion by County of Suffolk for leave to appear amicus curiae on the appeals herein granted only to the extent that the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

1 Mo. No. 2013-394
The Board of Managers of Parc Vendome
Condominium,
Appellant,
v.
George Cambourakis, et al.,
Respondents,
Bright Horizons Family Solutions LLC,
Respondent.

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

2 Mo. No. 2013-588
The People &c.,
Appellant,
v.
Eugene Polhill,
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.

1 Mo. No. 2013-375
In the Matter of Ilyas Zaire A.-R., &c.

Habiba A.-R.,
Appellant,
Catholic Guardian Society and Home Bureau,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2013-454
In the Matter of RCN Telecom Services of
New York, LP, &c.
et al.,

Appellants,
v.
David M. Frankel, &c., 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 proceeding within the meaning of the Constitution and is not an order of the type provided for in CPLR 5602(a)(2).

4 Mo. No. 2013-427
In the Matter of Gena S.

Genesee County Department of Social
Services,
Respondent;
Karen M.,
Appellant.
(And Two Other Proceedings.)

Motion, insofar as it seeks leave to appeal from the Appellate Division order reversing the Family Court order of disposition as to Gena S. and remitting to Family Court for further proceedings, dismissed upon the ground that such order does not finally determine that proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.

Motion for poor person relief dismissed as academic.

Mo. No. 2013-444
The People &c. ex rel. Henry T. Scott,
Appellant,
v.
Harold Graham, &c.,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2013-459
In the Matter of Seniors for Safety, &c., et al.,
Appellants,
v.
New York City Department of
Transportation, et al.,
Respondents.

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

1 Mo. No. 2013-628
The People &c.,
Respondent,
v.
Marsha Sibblies,
Appellant.

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. Judge Abdus-Salaam took no part.

1 Mo. No. 2013-472
Elizabeth A. Spielfogel,
Appellant,
v.
Larry R. Spielfogel,
Respondent.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Motion for a stay dismissed as academic.

2 Mo. No. 2013-305
Sunrise Check Cashing and Payroll Services,
Inc., et al.,
Respondents,
v.
Town of Hempstead,
Appellant.

Motion for reargument denied.
Judges Rivera and Abdus-Salaam took no part.

3 Mo. No. 2013-411

David Swartz,
Appellant,

v.

St. Mary's Hospital of Amsterdam et al.,
Defendants,
Janet Alloway et al.,
Respondents.

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

3 Mo. No. 2013-470

In the Matter of Fiorentino Vacchio,
Respondent.
Astoria Rubbish Removal Company, Inc.,
Appellant.
Commissioner of Labor,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2013-456

The People &c.,
Respondent,

v.

Christopher B. Washington,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2013-479

In the Matter of Corrina W.,
Respondent,

v.

Jennifer J.,
Respondent,
Donald F.,
Respondent.
Attorney for the Children,
Appellant.
(And Another Proceeding.)

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the proceedings within the meaning of the Constitution.

2 Mo. No. 2013-12
Joseph O. Yebo,
 Appellant,
 v.
Helene M. Cuadra,
 Respondent.

Motion for reargument of motion for leave to appeal
denied.
Judges Rivera and Abdus-Salaam took no part.