

May 30, 2013

CASES

No. 171

Marcia L. Caronia, Linda McAuley and
Arlene Feldman,
Appellants,
v.
Philip Morris USA, Inc.,
Respondent.

Certification of questions 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. 96

The People &c.,
Respondent,
v.
Isaac Diggins,
Appellant.

Order reversed, defendant's motion pursuant to CPL 440.10 to vacate the judgment of conviction and sentence granted, and case remitted to Supreme Court, New York County, for further proceedings on the indictment, in a memorandum.
Chief Judge Lippman and Judges Graffeo, Pigott and Rivera concur.
Judges Read and Smith dissent and vote to affirm, concluding that defendant's trial counsel pursued a protest strategy (see People v Diggins, 11 NY3d 518, 525 [2008]).
Judge Abdus-Salaam took no part.

4 No. 94

Michelle Galetta,
Appellant,
v.
Gary Galetta,
Respondent.

Order reversed, with costs, plaintiff's motion for summary judgment determining that the parties' prenuptial agreement is invalid granted, and certified question answered in the negative.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Read, Smith, Pigott and Rivera concur.
Judge Abdus-Salaam took no part.

No. 172
In the Matter of the Honorable Glen R.
George, a Justice of the Middletown Town
Court, Delaware County,
Petitioner,
State Commission on Judicial Conduct,
Respondent.

On the Court's own motion, it is determined that
Honorable Glen R. George is suspended, with pay,
effective immediately, from the office of Justice of
the Middletown Town Court, Delaware County,
pursuant to NY Constitution, article VI, § 22 and
Judiciary Law § 44(8).
Chief Judge Lippman and Judges Graffeo, Read,
Smith, Pigott, Rivera and Abdus-Salaam concur.

1 No. 111
The People &c.,
Respondent,
v.
Thomas Lee,
Appellant.

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

1 No. 118
Manhattan Telecommunications Corporation,
Appellant,
v.
H & A Locksmith, Inc., &c., et al.,
Defendants,
Ariq Vanunu,
Respondent.

Order reversed, with costs, case remitted to the
Appellate Division, First Department, for
consideration of issues raised but not determined on
the appeal to that court, and certified question
answered in the negative.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Graffeo, Read,
Pigott and Rivera concur.
Judge Abdus-Salaam took no part.

No. 66
Lori Schlessinger and Brenda Pianko,
Appellants,
v.
Valspar Corporation,
Respondent.

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 this Court's Rules of Practice, and after hearing argument by counsel for the parties and consideration of the briefs and the record submitted, certified questions answered in the negative.

Opinion by Judge Read.

Chief Judge Lippman and Judges Graffeo, Pigott and Rivera concur.

Judge Smith dissents in part in an opinion.

Judge Abdus-Salaam took no part.

1 No. 112
The People &c.,
Respondent,
v.
Timothy Williams,
Appellant.

Order affirmed, in a memorandum.

Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Rivera concur.

Judge Abdus-Salaam took no part.

MOTIONS

1 SSD 30
In the Matter of Tonya A.,
 Respondent,
 v.
Hal H.,
 Appellant.

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

1 Mo. No. 2013-549
Tiffany Applewhite, &c., et al.,
 Respondents,
 v.
Accuhealth, Inc., et al.,
 Defendants,
City of New York,
 Appellant.

Motion by New York State Trial Lawyers
Association for leave to file a brief amicus curiae on
the appeal herein granted and the proposed brief is
accepted as filed.

1 Mo. No. 2013-227
Charla Bikman,
 Appellant,
 v.
595 Broadway Associates,
 Respondent.

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

1 Mo. No. 2013-345
Colgate Scaffolding & Equipment Corp.,
 Appellant,
 v.
Albrecht, Viggiano, Zureck & Company,
P.C., &c.,
 Defendant,
Microsoft Corporation,
 Respondent.

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

1 Mo. No. 2013-449
The People &c.,
 Respondent,
 v.
Alexander Dockery,
also known as John Harris,
 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.

1 Mo. No. 2013-365
The People &c.,
 Respondent,
 v.
Kamal Gajadhar,
 Appellant.

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

1 Mo. No. 2013-336
Elizabeth Gonzalez,
 Appellant,
 v.
The City of New York,
 Respondent.

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

1 Mo. No. 2013-214
In the Matter of Isabelita Gonzalez,
 Appellant,
Emadelin Omar,
 Petitioner,
 v.
Division of Housing and Community
Renewal of the State of New York, et al.,
 Respondents.

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

1 Mo. No. 2013-337
In the Matter of Joan Hansen & Company,
Inc.,
Respondent,
v.
Everlast World's Boxing Headquarters Corp.,
et al.,
Appellants.

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

2 Mo. No. 2013-450
The People &c.,
Respondent,
v.
Robert Kordish,
Appellant.

Motion for assignment of counsel granted and Diane V. Bruns, Esq., c/o Schlather, Stumbar, Parks & Salk, LLP, 200 East Buffalo St., Ithaca, NY 14850 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2013-364
The People &c.,
Respondent,
v.
Rahnick Lacewell,
Appellant.

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

4 Mo. No. 2013-368
In the Matter of Shalitta T. Lee,
Respondent,
v.
Anthony Montez Williams,
Appellant.

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

1 Mo. No. 2013-372
Ernest Lewis, et al.,
Respondents,
v.
New York City Transit Authority, et al.,
Appellants.

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

2 SSD 29
In the Matter of Metropolitan Transportation
Authority,
 Respondent.
Washed Aggregate Resources, Inc.,
 Appellant.

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

2 Mo. No. 2013-354
Teddy Moore,
 Appellant,
 v.
Frank Guerra,
 Defendant,
Christopher Bramwell, et al.,
 Respondents.

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

3 Mo. No. 2013-495
The People &c.,
 Respondent,
 v.
Christopher Oathout,
 Appellant.

Motion by John A. Aretakis for leave to appear
amicus curiae on the appeal herein &c. dismissed as
untimely (see Rules of Ct of Appeals [22 NYCRR]
500.23[a][1][iii]).

4 Mo. No. 2013-512
The People &c.,
 Respondent,
 v.
Ennis E. Ruffin,
 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. 2013-524
The People &c.,
 Respondent,
 v.
Merlin G. Sage,
 Appellant.

Motion for assignment of counsel granted and
Timothy P. Donaher, Esq., Monroe County Public
Defender, 10 N. Fitzhugh Street, Rochester, NY
14614 assigned as counsel to the appellant on the
appeal herein.

4 Mo. No. 2013-328
The People &c.,
Respondent,
v.
Nathaniel Shepard III,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2013-357
Martin J. Siegel,
Appellant,
v.
J.P. Morgan Chase & Co., et al.,
Respondents.

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

4 Mo. No. 2013-374
In the Matter of Terrence Slater,
Appellant,
v.
Hon. Craig J. Doran, &c.,
Respondent.

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

4 Mo. No. 2013-461
The People &c.,
Respondent,
v.
Floyd L. Smart,
Appellant.

Motion for assignment of counsel granted and Mark D. Funk, Esq., 144 Exchange Blvd., Ste. 400, Rochester, NY 14614 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2013-363
The People &c.,
Respondent,
v.
Richard Torres,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2013-347
The People &c.,
 Respondent,
 v.
Vincent Valentino,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2013-503
The People &c.,
 Respondent,
 v.
Jamel Walston,
 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.