

February 20, 2014

**CASES**

2                    No. 19  
The People &c.,  
    Appellant,  
    v.  
Paul Aveni,  
    Respondent.

Appeal dismissed upon the ground that the modification by the Appellate Division was not "on the law alone or upon the law and such facts which, but for the determination of law, would not have led to . . . modification" (CPL 450.90[2][a]), in a memorandum.  
Chief Judge Lippman and Judges Graffeo, Read, Smith, Rivera and Abdus-Salaam concur.  
Judge Pigott dissents and votes to reverse in an opinion.

1                    No. 91 SSM 1  
In the Matter of Ciro Dellaporte,  
    Respondent,  
    v.  
New York City Department of Buildings, et  
al.,  
    Appellants.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative. The Appellate Division correctly determined that the denial of petitioner's license renewal application lacked a rational basis.  
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

1                    No. 15  
Richard Fabrizi,  
    Respondent,  
    v.  
1095 Avenue of the Americas, L.L.C., et al.,  
    Appellants,  
Verizon New York, Inc., et al.,  
    Defendants.  
[And Other Actions]

On appeal by defendants 1095 Avenue of the Americas, L.L.C. and J.T. Magen Construction Company, Inc., order reversed, with costs, motion by those defendants for summary judgment dismissing the Labor Law § 240(1) claim as against them granted and certified question answered in the negative. Appeal, insofar as taken by defendant Dechert LLP, dismissed, without costs, upon the ground that it is not a party aggrieved (CPLR 5511). 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. 89 SSM 45  
Nelson Lebron,  
    Appellant,  
    v.  
SML Veteran Leather, LLC,  
    Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, in a memorandum.  
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Rivera concur.  
Judge Abdus-Salaam took no part.

1                    No. 30  
Glenford Morris,  
    Respondent,  
    v.  
Pavarini Construction, et al.,  
    Appellants.

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

3                    No. 18  
The People &c.,  
    Respondent,  
    v.  
Adrian P. Thomas,  
    Appellant.

Order reversed, defendant's motion to suppress statements granted and a new trial ordered.  
Opinion by Chief Judge Lippman.  
Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

2                    No. 10  
The People &c.,  
    Respondent,  
    v.  
Paul Thompson,  
    Appellant.

Order affirmed.  
Opinion by Judge Abdus-Salaam.  
Judges Graffeo, Read and Pigott concur.  
Chief Judge Lippman dissents in an opinion in which Judges Smith and Rivera concur.

1                    No. 17  
Union Square Park Community Coalition,  
Inc., et al.,  
    Appellants,  
    v.  
New York City Department of Parks and  
Recreation, et al.,  
    Respondents.

Order, insofar as appealed from, affirmed, with costs.  
Opinion by Judge Graffeo.  
Chief Judge Lippman and Judges Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

**MOTIONS**

3                    Mo. No. 2014-26  
In the Matter of Carter A., &c.

Cortland County Department of Social  
Services,  
    Respondent;  
Jason A.,  
    Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2014-19  
The People &c.,  
    Respondent,  
    v.  
Willie Barbour,  
    Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2014-16  
In the Matter of Miguel Berroa,  
    Appellant,  
    v.  
Kathleen M. Rice, &c.,  
    Respondent.

Motion for leave to appeal dismissed upon the  
ground that it does not lie (see CPLR 5602).

1                    Mo. No. 2014-97  
The People &c.,  
    Respondent,  
    v.  
Ivan Calaff,  
    Appellant.

Motion by respondent to enlarge the record on  
appeal to include certain off-the-record documents  
contained in the supplemental appendix for  
respondent or to take judicial notice of those  
documents denied.  
Cross motion by appellant to strike the off-the-record  
portions of the supplemental appendix for respondent  
and the related references in the respondent's brief  
granted.

2 Mo. No. 2014-8  
In the Matter of Jalaya A.C. (Anonymous).

New York Foundling Hospital,  
Respondent;  
Deidra J. (Anonymous),  
Respondent;  
Jayquin Joseph C. (Anonymous),  
Appellant.  
(And Other Proceedings.)

Motion for leave to appeal dismissed upon the ground that appellant Jayquin Joseph C., having taken no appeal to the Appellate Division, may not appeal to this Court from the Appellate Division order of affirmance.

3 Mo. No. 2014-20  
In the Matter of Andrea Castle,  
Appellant,  
v.  
Maine-Endwell Central School District et al.,  
Respondents.

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

2 Mo. No. 2014-192  
Clemente Bros. Contracting Corp., et al.,  
Appellants,  
v.  
Aprile Hafner-Milazzo, &c.,  
Defendant,  
Capital One, N.A.,  
Respondent.

Motion by The Clearing House Association L.L.C. for leave to appear amicus curiae on the appeal 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. 2014-186  
In the Matter of Luther Dempsey,  
Appellant,  
v.  
New York City Department of Education, et al.,  
Respondents.

Motion by Community Service Society of New York et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed.

3                    Mo. No. 2013-1236  
Paul DerOhannesian II, &c., et al.,  
                          Appellants,  
                          v.  
City of Albany,  
                          Respondent.

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

1                    Mo. No. 2014-196  
In the Matter of Empire Center for New York  
State Policy,  
                          Appellant,  
                          v.  
Teachers' Retirement System of the City of  
New York,  
                          Respondent.

Motion by Citizens Budget Commission et al. for leave to appear amici 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.  
Judge Abdus-Salaam took no part.

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In the Matter of Empire Center for New York  
State Policy,  
                          Appellant,  
                          v.  
New York State Teachers' Retirement  
System,  
                          Respondent.

4                    Mo. No. 2014-72  
In the Matter of Jada G. et al.  
  
Wyoming County Department of Social  
Services,  
                          Respondent;  
Marcella G.,  
                          Appellant;  
et al.,  
                          Respondent.

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

2                    SSD 11  
The People &c.,  
    Appellant,  
    v.  
John Gonzales,  
    Respondent.

Appeal dismissed, by the Court sua sponte, upon the ground that the reversal by the Appellate Division was not "on the law alone or upon the law and such facts which, but for the determination of law, would not have led to reversal" (CPL 450.90[2][a]).

2                    Mo. No. 2014-2  
Tonya Hull,  
    Appellant,  
    v.  
Fieldpoint Community Association, Inc., et  
al.,  
    Respondents.

Motion for leave to appeal denied.

2                    Mo. No. 2014-14  
IndymacBank, F.S.B.,  
    Respondent,  
    v.  
Mohammad A. Khokhar,  
    Defendant,  
Barbara A. Baumgarten,  
    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.  
Motion for a stay dismissed as academic.

4                    Mo. No. 2013-1293  
In the Matter of S.J.,  
    Appellant,  
    v.  
State of New York,  
    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.  
Motion for poor person relief dismissed as academic.

1 Mo. No. 2013-1282

Elizabeth Frances Kerrigan, &c.,  
Appellant,

v.

TDX Construction Corporation, &c., et al.,  
Respondents,

et al.,

Defendants.

(And Third-Party Actions.)

Motion for leave to appeal denied.

3 Mo. No. 2014-22

In the Matter of Sincere KK.,  
Appellant,

v.

State of New York,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2014-11

Hannah Lieberman,  
Appellant,

v.

Adam Lieberman,  
Respondent.

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. 2014-77

In the Matter of Thomas F. Liotti &c.

Departmental Disciplinary Committee for the  
First Judicial Department,

Respondent;

Thomas F. Liotti,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2014-185  
The People &c.,  
Appellant,  
v.  
Collin F. Lloyd-Douglas,  
Respondent.

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The People &c.,  
Appellant,  
v.  
Eugene Polhill,  
Respondent.

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The People &c.,  
Appellant,  
v.  
Jermaine Dunbar,  
Respondent.

2 Mo. No. 2014-6  
In the Matter of Mehran Manouel, et al.,  
Appellants,  
v.  
Board of Assessors, et al.,  
Respondents.

2 SSD 9  
In the Matter of John Marsala, et al.,  
Appellants,  
v.  
City of Long Beach, et al.,  
Respondents.

Motion by Legal Ethics Bureau at New York University School of Law for leave to file a brief amicus curiae on the appeals herein granted and the proposed brief is accepted as filed.

Motion for leave to appeal granted.

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

1                    Mo. No. 2013-1179  
Manuel Mayo, et al.,  
    Respondents,  
    v.  
Metropolitan Opera Association, Inc., et al.,  
    Appellants.

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Metropolitan Opera Association, Inc.,  
    Third-Party Appellant,  
    v.  
Strauss Painting Inc., et al.,  
    Third-Party Respondents,  
Creative Finishes Limited,  
    Third-Party Appellant.

2                    Mo. No. 2013-1284  
In the Matter of Town of Monroe,  
et al.,  
    Respondents,  
Village of Kiryas Joel,  
    Appellant,  
    v.  
Village of Woodbury, et al.,  
    Respondents.

1                    Mo. No. 2014-15  
In the Matter of Rita Morgan, &c.,  
    Respondent;  
Charles Rochester,  
    Appellant;  
Veronica Pacheco et al.,  
    Respondents.

Motions 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.

Motion for leave to appeal denied.

On the Court's own motion, appeal dismissed, without costs, upon the ground that it does not lie (see CPLR 5601).  
Motion for leave to appeal dismissed upon the ground that the Court of Appeals does not have jurisdiction to entertain it (see NY Const, art VI, § 3[b]; CPLR 5602).  
Motion for poor person relief dismissed as academic.

2                    Mo. No. 2014-177  
In the Matter of Town of North Hempstead,  
                  Appellant-Respondent,  
          v.  
County of Nassau,  
                  Respondent-Appellant.

Motion by Town of Islip for leave to appear amicus curiae on the appeal 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.

3                    SSD 12  
In the Matter of Thomas C. O'Brien,  
                  Appellant,  
          v.  
New York State Commissioner of Education  
et al.,  
                  Respondents.

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

2                    SSD 10  
The People &c.,  
                  Appellant,  
          v.  
Robert Sepe,  
                  Respondent.

Appeal dismissed, by the Court sua sponte, upon the ground that the modification by the Appellate Division was not "on the law alone or upon the law and such facts which, but for the determination of law, would not have led to . . . modification" (CPL 450.90[2][a]).

1                    Mo. No. 2014-163  
In the Matter of Veronica P.,  
                  Respondent,  
          v.  
Radcliff A.,  
                  Appellant.

Motion for assignment of counsel granted and Eric Nelson, Esq., 54 Florence Street, Staten Island, NY 10308 assigned as counsel to the respondent on the appeal herein.

2                    Mo. No. 2013-1232  
In the Matter of Wilfredo Quintanilla,  
                  Respondent,  
          v.  
Sandra Morales,  
                  Appellant.

Motion by Sandra Morales for leave to appeal denied.

2                    Mo. No. 2014-24  
In the Matter of Wilfredo Quintanilla,  
                  Appellant,  
          v.  
Sandra Morales,  
                  Respondent.

Motion by Wilfredo Quintanilla for leave to appeal dismissed upon the ground that appellant, having taken no appeal to the Appellate Division, may not appeal to this Court from the Appellate Division order of affirmance.  
Motion for poor person relief dismissed as academic.

2                    Mo. No. 2014-4  
The People &c.,  
                  Respondent,  
          v.  
Andre Roldan,  
                  Appellant.

Motion for leave to appeal denied.

4                    Mo. No. 2013-1248  
Renee Sciara, et al.,  
                  Respondents,  
          v.  
Surgical Associates of Western New York,  
P.C., et al.,  
                  Respondents.  
Usha Chopra, M.D.,  
                  Non-Party Appellant.

Motion for an order precluding defendants Surgical Associates of Western New York, P.C. and George Blessios, M.D. from submitting a brief on the appeal denied.

3                    Mo. No. 2014-1  
In the Matter of Shana SS.,  
                  Respondent,  
          v.  
Jeremy TT.,  
                  Appellant.  
(And Three Other Related Proceedings.)

Motion for leave to appeal denied.

2                    Mo. No. 2014-182  
In the Matter of Robert T.,  
                        Respondent,  
                        v.  
Christine A. Sproat, &c., et al.,  
                        Appellants,  
D. Holley Carnright,  
                        Respondent.

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In the Matter of Allen B.,  
                        Respondent,  
                        v.  
Christine A. Sproat, &c., et al.,  
                        Appellants,  
Richard D. Northrup,  
                        Respondent.

Motion by District Attorneys Association of the State of New York 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.