

December 14, 2010

CASES

2 No. 216
The People &c.,
 Respondent,
 v.
Calvin Battles,
 Appellant.

Order modified by remitting to Supreme Court, Kings County, for further proceedings in accordance with the opinion herein and, as so modified, affirmed.
Opinion by Judge Pigott.
Judges Ciparick, Graffeo, Read and Smith concur.
Chief Judge Lippman dissents in part in an opinion.
Judge Jones dissents in part in a separate opinion.

1 No. 214
The People &c.,
 Respondent,
 v.
Jamel Bell,
 Appellant.

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

1 No. 215
The People &c.,
 Appellant-Respondent,
 v.
Charles Frazier,
 Respondent-Appellant.

Order modified by remitting to the Appellate Division, First Department, for further proceedings in accordance with the opinion herein and, as so modified, affirmed.
Opinion by Chief Judge Lippman.
Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

2 No. 217
The People &c.,
 Respondent,
 v.
Ulysess McKnight,
 Appellant.

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

1 No. 233 SSM 52
The People &c.,
 Respondent,
 v.
Bruce Sweeper,
 Appellant.

On review of submissions pursuant to
section 500.11 of the Rules, order
affirmed, in a memorandum.
Chief Judge Lippman and Judges
Ciparick, Graffeo, Read, Smith, Pigott
and Jones concur.

2 No. 218
The People &c.,
 Respondent,
 v.
Peter Wells,
 Appellant.

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

MOTIONS

Mo. No. 2010-1239
In the Matter of the Hon. Gilbert
L. Abramson, a Judge of the
Family Court, Saratoga County,
Petitioner.
State Commission on Judicial
Conduct,
Respondent.

Motion by petitioner for relief
related to the October 26, 2010
determination of respondent dismissed
upon the ground that it is not
authorized by the Judiciary Law or
otherwise and that this Court does not
have jurisdiction to entertain it.
The proper method for seeking review
of a determination of the Judicial
Conduct Commission is to file a
written request pursuant to section
44(7) of the Judiciary Law.
Petitioner's resignation does not
excuse that procedure (see Judiciary
Law § 47; Matter of Backal, 87 NY2d 1
[1995]).

2 Mo. No. 2010-1002
In the Matter of Atlantic
Development, LLC, et al.,
Appellants,
et al.,
Petitioner,
v.
Town/Village of Harrison, et al.,
Respondents.

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

2 Mo. No. 2010-1183
In the Matter of Keynya Shante
Marie B. (Anonymous).
Administration for Children's
Services, et al.,
Respondents;
Craig B.,
Respondent;
Tuwanda Marie G.,
Appellant.

Motion for leave to appeal denied.

1 SSD 76
Brad H., et al.,
 Appellants,
 v.
The City of New York, et al.,
 Respondents.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution.

4 Mo. No. 2010-1164
In the Matter of Sam Chinn,
 Appellant,
 v.
Onondaga County District
Attorney's Office,
 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.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2010-1281
The People &c.,
 Respondent,
 v.
Sebastian Delamota,
 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.

2 Mo. No. 2010-1256
The People &c.,
 Respondent,
 v.
Damian Gardner,
 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.

2 Mo. No. 2010-1209
The People &c.,
 Appellant,
 v.
John Grant,
 Respondent.

Motion to vacate this Court's October 28, 2010 dismissal order granted.

3 Mo. No. 2010-1282
The People &c.,
 Respondent,
 v.
David M. Harnett,
 Appellant.

Motion by District Attorneys
Association of the State of New York
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 24 copies
filed within seven days.

3 Mo. No. 2010-1291
The People &c.,
 Respondent,
 v.
David M. Harnett,
 Appellant.

Motion by New York Civil Liberties
Union 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
24 copies filed within seven days.

3 Mo. No. 2010-1308
The People &c.,
 Respondent,
 v.
David M. Harnett,
 Appellant.

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

4 Mo. No. 2010-1053
In the Matter of Edward Klock,
 Respondent,
 v.
Maureen Klock,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2010-1041
Metropolitan Taxicab Board of
Trade, et al.,
 Appellants,
 v.
The New York City Taxi &
Limousine Commission ("TLC"),
et al.,
 Respondents.

Motion for leave to appeal granted.

1 Mo. No. 2010-1166
In the Matter of the Liquidation
of Midland Insurance Company.

American Standard Inc., et al.,
 Appellants,
Echlin, Inc., et al.,
 Claimants,
 v.
Swiss Reinsurance America
Corporation, et al.,
 Intervenors-Respondents,
Superintendent of Insurance of
the State of New York, &c., et
al.,
 Respondents.

Motion to strike Addendum A to
appellants' brief and references
thereto in the appellants' brief
granted.
Cross motion to seal Addendum A
dismissed as academic.

 Mo. No. 2010-1038
Town of Poughkeepsie,
 Appellant,
 v.
Thomas Espie et al.,
 Respondents.

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

3 Mo. No. 2010-1198
The People &c.,
 Respondent,
 v.
David Shaw,
 Appellant.

Motion for an extension of the time
within which to apply for permission
to appeal pursuant to CPL 460.20
denied as unnecessary and motion
papers treated as a timely CPL 460.20
application.

4 Mo. No. 2010-1312
Virgil Smith, &c.,
 Respondent,
 v.
Hazel E. Sherwood, et al.,
 Defendants,
Central New York Regional
Transporation Authority, Also
Known as Centro, Inc., and
Theodore R. Gray,
 Appellants.

Motion by New York Public Transit
Association 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
24 copies filed within seven days.

2 Mo. No. 2010-1165
In the Matter of Robert Walsh,
 Appellant,
 v.
Nicholas Scopetta, &c., et al.,
 Respondents.

Motion for leave to appeal granted.

1 Mo. No. 2010-1261
The People &c., by Andrew M.
Cuomo, &c.,
 Appellant,
 v.
Wells Fargo Insurance Services,
Inc., et al.,
 Respondents.

Motion by Liberty Mutual Insurance
Company 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 24 copies filed within seven days.

1 Mo. No. 2010-1313
The People &c., by Andrew M.
Cuomo, &c.,
 Appellant,
 v.
Wells Fargo Insurance Services,
Inc., et al.,
 Respondents.

Motion by Council of Insurance Agents
and Brokers 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 24 copies
filed within seven days.