

December 16, 2010

**CASES**

1                   No. 234   SSM 57  
In the Matter of Albert F.,

A Person Alleged to be a Juvenile  
Delinquent,  
                    Appellant.  
Presentment Agency,  
                    Respondent.

On review of submissions pursuant to section 500.11 of the Rules, appeal dismissed, without costs, upon the ground that the two-justice dissent at the Appellate Division is not on a question of law (CPLR 5601[a]). Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

1                   No. 224  
Marvin Gibbs,  
                    Respondent,  
                    v.  
St. Barnabas Hospital,  
                    Respondent,  
Fausto Vincas, M.D.,  
                    Appellant,  
Scott Russo, M.D., et al.,  
                    Defendants.

Order reversed, with costs, the motion of defendant Vincas to enforce the conditional order of preclusion and for summary judgment dismissing the complaint against him granted, and certified question answered in the negative. Opinion by Judge Graffeo. Judges Read, Smith and Pigott concur. Judge Ciparick dissents and votes to affirm in an opinion in which Chief Judge Lippman and Judge Jones concur.

2                   No. 223  
Dale R. San Marco et al.,  
                    Appellants,  
                    v.  
Village/Town of Mount Kisco,  
                    Respondent.

Order reversed, with costs, defendant's motion for summary judgment denied, and certified question not answered upon the ground that it is unnecessary. Opinion by Chief Judge Lippman. Judges Ciparick, Pigott and Jones concur. Judge Smith dissents in an opinion in which Judges Graffeo and Read concur.

1                    No. 213  
The People &c.,  
                    Respondent,  
                    v.  
Sean Smith,  
                    Appellant.

Order affirmed.  
Opinion by Judge Ciparick.  
Chief Judge Lippman and Judges Graffeo,  
Read, Smith, Pigott and Jones concur.

1                    No. 235    SSM 59  
The People &c.,  
                    Respondent,  
                    v.  
Kenneth Stepter,  
                    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.

**MOTIONS**

2                    Mo. No. 2010-1151  
Dora Davidoff, &c., et al.,  
                    Appellants,  
                    v.  
Avner Mullokandov, et al.,  
                    Defendants,  
Rafael Shimunov, et al.,  
                    Respondents.

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

1                    Mo. No. 2010-1160  
The People &c.,  
                    Respondent,  
                    v.  
Jamel Duggins,  
                    Appellant.

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

2                    Mo. No. 2010-1150  
Joseph Gerdvil,  
                    Appellant,  
                    v.  
Vito J. Rizzo et al.,  
                    Respondents.

Motion for reargument of motion for leave to appeal denied.

4                    Mo. No. 2010-1152  
Michael Guiffrida, &c., et al.,  
                    Respondents,  
                    v.  
Storico Development, LLC,  
et al.,  
                    Appellants,  
et al.,  
                    Defendant.

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

2                    Mo. No. 2010-1075  
Thomas Halstead,  
                    Appellant,  
                    v.  
Paul Brokaw, et al.,  
                    Respondents.

Motion for leave to appeal granted.

2                    Mo. No. 2010-1125  
In the Matter of Kevin M.H.  
(Anonymous).

Motion for leave to appeal denied.

Suffolk County Department of  
Social Services,  
                          Respondent;  
Kenneth H. (Anonymous),  
                          Appellant.  
(And Another Proceeding.)

2                    Mo. No. 2010-1145  
Portia A. Hinton,  
                          Appellant,  
                          v.  
The City of New York, et al.,  
                          Respondents,  
et al.,  
                          Defendant.  
(And a Third-Party Action.)

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

3                    Mo. No. 2010-1046  
In the Matter of Eric Hurlburt,  
                          Respondent,  
                          v.  
Crystal Behr,  
                          Respondent.  
Attorney for the Child,  
                          Appellant.

Motion 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.

4                    Mo. No. 2010-1159  
In the Matter of George K.  
et al.  
  
Erie County Department of Social  
Services,  
                          Respondent;  
Stephen K.,  
                          Appellant.

Motion for leave to appeal denied.

1                   Mo. No. 2010-1153  
In the Matter of Rajiv Khurana,  
                  Appellant,  
                  v.  
Raymond Kelly, &c., et al.,  
                  Respondents.

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

3                   SSD 77  
In the Matter of Leon R. Koziol,  
a Suspended Attorney.  
  
Grievance Committee of the Fifth  
Judicial District,  
                  Respondent,  
Leon R. Koziol,  
                  Appellant.

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

3                   Mo. No. 2010-1158  
Allison Pierson et al.,  
                  Appellants,  
                  v.  
North Colonie Central School  
District,  
                  Respondent.

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

2                   Mo. No. 2010-1105  
In the Matter of Tyrone Powell,  
                  Appellant,  
                  v.  
Chairperson of New York State  
Board of Parole,  
                  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. 2010-1137  
In the Matter of Anthony  
Scarcella,  
                  Appellant,  
                  v.  
Village of Scarsdale Board of  
Trustees,  
                  Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2010-1134  
The People &c. ex rel. Rodney  
Snyder,  
                    Appellant,  
                    v.  
Warden of Sing Sing Correctional  
Facility,  
                    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.

3                    Mo. No. 2010-1101  
SPCA of Upstate New York, Inc.,  
et al.,  
                    Appellants,  
                    v.  
American Working Collie  
Association et al.,  
                    Respondents.

Motion for leave to appeal granted.

3                    Mo. No. 2010-1162  
In the Matter of Mark T.,  
                    Appellant,  
                    v.  
Joyanna U. et al.,  
                    Respondents.  
(And Another Proceeding.)

Motion for leave to appeal denied.

3                    Mo. No. 2010-1054  
Ulysses I & Company, Inc.,  
                    Respondent,  
                    v.  
Gary Feldstein,  
                    Defendant,  
Peter Morton, &c.,  
                    Appellant.  
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Peter Morton, &c.,  
                    Third-Party Appellant,  
                    v.  
Sheldon Solow et al.,  
                    Third-Party Respondents.

Motion, insofar as it seeks leave to  
appeal from that part of the Appellate  
Division order that affirmed Supreme  
Court's order denying appellant's  
motion to vacate, dismissed upon the  
ground that such portion of the order  
does not finally determine the action  
within the meaning of the  
Constitution; motion for leave to  
appeal otherwise denied.

3                   Mo. No. 2010-1133  
In the Matter of Deborah Wilson,  
                    Respondent,  
                    v.  
General Mills et al.,  
                    Appellants.  
Workers' Compensation Board,  
                    Respondent.

Motion for leave to appeal denied.