

June 30, 2011

CASES

1 No. 129
The People &c.,
 Appellant,
 v.
Benito Acevedo,
 Respondent.

Order reversed and order of Supreme Court, New York County, reinstated. Opinion by Chief Judge Lippman. Judges Ciparick and Smith concur. Judge Pigott concurs in result in an opinion in which Judges Graffeo and Read concur. Judge Jones dissents and votes to affirm in an opinion.

4 No. 133
Traci Butler,
 Appellant,
 v.
Stagecoach Group, PLC, et al.,
 Defendants,
Trentway-Wagar, Inc., et al.,
 Respondents.

Orders modified, without costs, in accordance with the opinion herein and, as so modified, affirmed, and certified question answered in the negative. Opinion by Judge Read. Judges Graffeo, Smith, Pigott and Jones concur. Judge Ciparick dissents in part and votes to reverse in an opinion in which Chief Judge Lippman concurs.

1 No. 130
The People &c.,
 Appellant,
 v.
Dionis Collado,
 Respondent.

Order reversed and order of Supreme Court, New York County, reinstated. Opinion by Chief Judge Lippman. Judges Ciparick and Smith concur. Judge Pigott concurs in result in an opinion in which Judges Graffeo and Read concur. Judge Jones dissents and votes to affirm in an opinion.

4 No. 134
Courtney Cowan, et al.,
 Appellants,
 v.
Stagecoach Group, PLC, et al.,
 Respondents,
XTRA Lease, Inc., et al.,
 Defendants.

Orders modified, without costs, in accordance with the opinion herein and, as so modified, affirmed, and certified question answered in the negative. Opinion by Judge Read. Judges Graffeo, Smith, Pigott and Jones concur. Judge Ciparick dissents in part and votes to reverse in an opinion in which Chief Judge Lippman concurs.

4 No. 135
Lauralee Davidson,
 Appellant,
 v.
Coach USA, Inc., et al.,
 Respondents.

Orders modified, without costs, in accordance with the opinion herein and, as so modified, affirmed, and certified question answered in the negative. Opinion by Judge Read. Judges Graffeo, Smith, Pigott and Jones concur. Judge Ciparick dissents in part and votes to reverse in an opinion in which Chief Judge Lippman concurs.

4 No. 131
Sheila Elizabeth Edwards, &c., et al.,
 Appellants,
 v.
Erie Coach Lines Company, et al.,
 Respondents,
et al.,
 Defendants.

Orders modified, without costs, in accordance with the opinion herein and, as so modified, affirmed, and certified questions answered in the negative. Opinion by Judge Read. Judges Graffeo, Smith, Pigott and Jones concur. Judge Ciparick dissents in part and votes to reverse in an opinion in which Chief Judge Lippman concurs.

4 No. 132
Megan Godwin, et al.,
 Appellants,
 v.
Trentway-Wagar, Inc., et al.,

 Respondents,
et al.,
 Defendants.

Orders modified, without costs, in accordance with the opinion herein and, as so modified, affirmed, and certified question answered in the negative. Opinion by Judge Read. Judges Graffeo, Smith, Pigott and Jones concur. Judge Ciparick dissents in part and votes to reverse in an opinion in which Chief Judge Lippman concurs.

4 No. 215 SSM 28
The People &c.,
 Respondent,
 v.
Michael Mungro,
 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.

 No. 128
NML Capital,
 Respondent-Appellant,
Montreux Partners, et al.,
 Respondents,
 v.
Republic of Argentina,
 Appellant-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 the Rules of Practice of the New York State Court of Appeals, and after hearing argument by counsel for the parties and consideration of the briefs and the record submitted, certified questions answered in the affirmative. Opinion by Judge Graffeo. Chief Judge Lippman and Judges Ciparick, Read, Smith, Pigott and Jones concur.

4 No. 136
Michael Roach, &c., et al.,
 Appellants,
 v.
Coach USA, Inc., et al.,
 Respondents.

Orders modified, without costs, in accordance with the opinion herein and, as so modified, affirmed, and certified question answered in the negative. Opinion by Judge Read. Judges Graffeo, Smith, Pigott and Jones concur. Judge Ciparick dissents in part and votes to reverse in an opinion in which Chief Judge Lippman concurs.

MOTIONS

2 Mo. No. 2011-549 Motion for leave to appeal denied.
The People &c.,
 Respondent,
 v.
Shaquille Abdul-Jalil,
 Appellant.

2 Mo. No. 2011-567 Motion for leave to appeal denied.
The People &c.,
 Respondent,
 v.
Byron Adams,
 Appellant.

4 Mo. No. 2011-537 Motion for leave to appeal denied.
The People &c. ex rel. Francis
Auleta,
 Appellant,
 v.
James L. Berbary, &c.,
 Respondent.

4 Mo. No. 2011-539 Motion for leave to appeal denied.
In the Matter of Nicholas B.
et al.

Erie County Department of Social
Services,
 Respondent;
Eleanor J.,
 Appellant.

4 Mo. No. 2011-540
In the Matter of William C.B.

Erie County Department of Social
Services,
 Respondent;
Judy B.,
 Appellant.

Motion, insofar as it seeks leave to
appeal from the Appellate Division
order that affirmed Family Court's
order terminating appellant's parental
rights, denied; motion for leave to
appeal otherwise dismissed upon the
ground that the other Appellate
Division order sought to be appealed
from does not finally determine the
proceeding within the meaning of the
Constitution.

1 Mo. No. 2011-551
In the Matter of Deborah Bush,
 Appellant,
 v.
Division of Human Rights et al.,
 Respondents.

Motion for leave to appeal dismissed
as untimely (see CPLR 5513[b]; Eaton v
State of New York, 76 NY2d 824
[1990]).
Motion for poor person relief
dismissed as academic.

1 Mo. No. 2011-589
In the Matter of Chelsea C.
et al., &c.

Bethania C., &c.,
 Appellant,
The Children's Aid Society,
 Respondent.

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

3 Mo. No. 2011-536
In the Matter of Moshe Cinque
Canty, &c.,
 Appellant,
 v.
James Esgrow, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2011-538
Chazon, LLC,
 Respondent,
 v.
Margaret Maugenest,
 Appellant,
et al.,
 Defendants.

Motion for leave to appeal granted.

3 Mo. No. 2011-579
In the Matter of Mary Ann Cuffe,
 Appellant,
 v.
Supercuts et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

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

2 Mo. No. 2011-544
In the Matter of Lorraine D.
(Anonymous),
 Appellant,
 v.
Widmack C. (Anonymous), et al.,
 Respondents.
(And Other Proceedings.)

Motion, insofar as it seeks leave to
appeal from that portion of the
Appellate Division order which
affirmed so much of Family Court's
order denying that branch of
appellant's motion as sought to vacate
the part of Family Court's prior order
determining custody, dismissed upon
the ground that such portion of the
Appellate Division order sought to be
appealed from does not finally
determine the proceedings within the
meaning of the Constitution; motion
for leave to appeal otherwise denied.

3 Mo. No. 2011-592
In the Matter of Rebecca L.
Disidoro,
 Respondent,
 v.
Danny T. Disidoro,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2011-569
In the Matter of Kieran Duffy,
 Appellant,
 v.
Steven M. Jaeger, &c., et al.,
 Respondents.

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

2 Mo. No. 2011-543
In the Matter of Jose Figueroa,
 Appellant,
 v.
Jacqueline Lewis,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2011-561
The People &c. ex rel. Clifford
Graham,
 Appellant,
 v.
Kevin Walsh, &c.,
 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.

3 Mo. No. 2011-559
In the Matter of Shawn Green,
 Appellant,
 v.
Mark L. Bradt, &c.,
 Respondent.

Motion for reargument of motion for
leave to appeal denied.

3 Mo. No. 2011-558
In the Matter of Shawn Green,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.
(And Another Related Proceeding.)

Motion for reargument of motion for
leave to appeal denied.

3 Mo. No. 2011-541
The People &c.,
 Respondent.
 v.
Dennis R. Greene,
 Appellant.

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

2 Mo. No. 2011-548
In the Matter of Lisbeth H.
(Anonymous).

Motion for leave to appeal denied.

Nassau County Department of
Social Services,
 Respondent;
Ramon R. (Anonymous),
 Respondent;
Noemy H. (Anonymous),
 Appellant.
(And Another Proceeding.)

2 Mo. No. 2011-533
In the Matter of Vera Hyra,
deceased.

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

Bank of New York, &c.,
 Respondent,
Bogdan Wislocki, et al.,
 Appellants.
(And A Related Action.)

1 Mo. No. 2011-529
In the Matter of Kevin J. Kelly,
 Appellant,
 v.
Raymond Kelly, &c., et al.,
 Respondents.

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

3 Mo. No. 2011-532
In the Matter of Keith Knight,
 Appellant,
 v.
Norman Bezio, &c.,
 Respondent.

Motion for leave to appeal dismissed
as untimely (see CPLR 5513[b]).

1 Mo. No. 2011-571
Jeanne Sorensen Leff,
 Appellant,
 v.
Fulbright & Jaworski, L.L.P.,
et al.,
 Respondents.

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

1 Mo. No. 2011-555
Laurence L. Leff, Ph.D., &c.,
et al.,
 Appellants,
 v.
TIAA-CREF Life Insurance Company,
 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.

2 SSD 28
Nella Manko,
 Appellant,
 v,
Lenox Hill Hospital,
 Respondent.

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

2 SSD 29
In the Matter of Nella Manko,
 Appellant,
et al.,
 Petitioner,
 v.
New York State Division of
Housing and Community Renewal,
Office of Rent Administration,
 Respondent.

Appeal dismissed without costs, by the
Court sua sponte, upon the ground that
no appeal lies as of right from the
unanimous order of the Appellate
Division absent the direct involvement
of a substantial constitutional
question (CPLR 5601).

2 Mo. No. 2011-550
Antoinette Marini, &c., et al.,
 Respondents,
 v.
Vincent Lombardo,
 Appellant,
et al.,
 Defendants.

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

1 Mo. No. 2011-556
Janulyn McKanic,
 Appellant,
 v.
Amigos del Museo del Barrio,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2011-545
Fortune Mizrachi,
 Respondent,
 v.
Danny Mizrachi,
 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.

3 Mo. No. 2011-663
In the Matter of the State of New
York, Office of Children and
Family Services,
 Appellant,
Civil Service Employees
Association, Inc., et al.,
 Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2011-522
In the Matter of North Syracuse
Central School District,
 Appellant,
 v.
New York State Division of Human
Rights,
 Respondent.

Motion for leave to appeal granted.

2 Mo. No. 2011-530
In the Matter of Carl Henry P.
(Anonymous),
 Respondent,
 v.
Tiwiana L. (Anonymous),
 Appellant;
Suffolk County Department of
Social Services,
 Respondent.
(And Another Proceeding).

Motion for leave to appeal denied.

1 Mo. No. 2011-546
In the Matter of Robert Parris,
 Appellant,
 v.
Hon. Robert Fabrizio, et al.,
 Respondents.

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

2 Mo. No. 2011-528
Joyce Pickett, et al.,
 Appellants,
 v.
Federated Department Stores,
Inc.,
 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.

2 Mo. No. 2011-547
Norman Pickett, et al.,
 Appellants,
 v.
Romles Gibbs, 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 action within the
meaning of the Constitution.
Judge Jones took no part.

3 Mo. No. 2011-574
The People &c. ex rel. Kim
Ragland,
 Appellant,
 v.
J.F. Bellnier, Superintendent,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2011-584
In the Matter of Nicholas R., &c.

St. Lawrence County Department of
Social Services,
 Respondent;
Jason S.,
 Appellant.
(And Another Proceeding.)

Motion for leave to appeal denied.
Judge Pigott took no part.

1 Mo. No. 2011-534
In the Matter of Lillian Roberts,
&c., et al.,
 Appellants,
 v.
Michael R. Bloomberg, &c.,
et al.,
 Respondents,
Bernard Waiters, &c.,
 Respondent.

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

4 Mo. No. 2011-531
In the Matter of Robert D.
Secrist,
 Appellant,
 v.
Krista Brown,
 Respondent.

Motion for leave to appeal denied.
Judge Pigott took no part.

3 Mo. No. 2011-542
In the Matter of the Foreclosure
of Tax Liens by County of
Sullivan.
County of Sullivan,
 Respondent;
Judith Ann Fay et al.,
 Appellants.

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.

1 Mo. No. 2011-552
UBS Securities LLC, &c.,
 Respondent,
 v.
Red Zone LLC, &c.,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2011-527
In the Matter of Wanda Wright,
 Appellant,
 v.
Victoria Wright,
 Respondent.

Motion for leave to appeal denied.