

April 05, 2011

**CASES**

2                   No. 57  
In the Matter of Dylan C.  
(Anonymous),  
                    Respondent;  
Presentment Agency,  
                    Appellant.

Order affirmed, without costs.  
Opinion by Chief Judge Lippman.  
Judges Ciparick, Graffeo and Jones  
concur.  
Judge Smith dissents and votes to  
reverse in an opinion in which Judges  
Read and Pigott concur.

3                   No. 56  
The People &c.,  
                    Respondent,  
                    v.  
Zufer Cecunjanin,  
                    Appellant.

Order modified by vacating defendant's  
conviction of attempted sexual abuse in  
the first degree, dismissing count one  
of the indictment and remitting to  
Franklin County Court for resentencing  
and, as so modified, affirmed.  
Opinion by Judge Smith.  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read, Pigott and  
Jones concur.

1                   No. 123 SSM 7  
In the Matter of Commissioner of  
Social Services, on Behalf of  
Maudlyn V.R.,  
                    Respondent,  
                    v.  
Paul C.,  
                    Appellant.

On review of submissions pursuant to  
section 500.11 of the Rules, order  
affirmed, with costs, and certified  
question not answered upon the ground  
that it is unnecessary, in a  
memorandum.  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read, Smith, Pigott  
and Jones concur.

1                   No. 46  
The People &c.,  
                    Respondent,  
                    v.  
Terence G. Jordan,  
                    Appellant.

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

1                   No. 38  
In the Matter of the Liquidation  
of Midland Insurance Company.

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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.

Order reversed, with costs, order of  
Supreme Court, New York County,  
reinstated and certified question  
answered in the negative.  
Opinion by Judge Ciparick.  
Chief Judge Lippman and Judges Graffeo,  
Read, Smith, Pigott and Jones concur.

3                   No. 34  
In the Matter of State of New  
York,

Respondent,

v.

Andrew O.,

Appellant.

Order reversed, with costs, and a new  
trial ordered, in a memorandum.  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read, Smith, Pigott  
and Jones concur.

4                   No. 55  
In the Matter of Ridge Road Fire  
District,

Appellant,

v.

Michael P. Schiano, &c., et al.,  
                  Respondents.

Order reversed, with costs, and  
judgment of Supreme Court, Monroe  
County, reinstated.  
Opinion by Judge Pigott.  
Judges Graffeo, Read and Smith concur.  
Chief Judge Lippman dissents and votes  
to affirm in an opinion in which Judges  
Ciparick and Jones concur.

1                   No. 47  
The People &c.,  
                  Respondent,

v.

Andre Stewart,  
                  Appellant.

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

1                    No. 54  
In the Matter of Robert Thomas  
Woods,  
                          Appellant,  
                          v.  
New York City Department of  
Citywide Administrative Services,  
                          Respondent.

Order reversed, with costs, petition granted, respondent's determination denying petitioner placement on a special eligible list annulled and matter remitted to Supreme Court, New York County, with directions to remand to respondent for further proceedings in accordance with the opinion herein. Opinion by Judge Pigott. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith and Jones concur.

**MOTIONS**

2                   Mo. No. 2011-163  
In the Matter of Board of  
Commissioners of Great Neck Park  
District of Town of North  
Hempstead,  
                          Respondent,  
                  v.  
Kings Point Heights, LLC,  
                          Appellant.

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.

4                   Mo. No. 2011-166  
In the Matter of Sandra Bowler,  
                          Appellant,  
                  v.  
New York State Division of Human  
Rights et al.,  
                          Respondents.

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

2                   Mo. No. 2011-176  
Diane Kamen Clark,  
                          Appellant,  
                  v.  
Mortgage Services Unlimited,  
et al.,  
                          Defendants,  
Washington Mutual Bank, F.A.,  
                          Respondent.

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

2                   Mo. No. 2011-185  
Adrean Coombs, &c.,  
                          Appellant,  
                  v.  
Beverly Jervier, et al.,  
                          Respondents,  
et al.,  
                          Defendants.

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

4                    Mo. No. 2011-141  
The People &c.,  
                    Respondent,  
                    v.  
John Cullen, &c.,  
                    Appellant.

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

1                    Mo. No. 2011-173  
The People &c.,  
                    Respondent,  
                    v.  
Jose Diaz,  
                    Appellant.

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

3                    Mo. No. 2011-154  
The People &c. ex rel. Echo  
Westley Dixon,  
                    Appellant,  
                    v.  
D. Rock, &c.,  
                    Respondent.

Motion for leave to appeal denied.

3                    Mo. No. 2011-155  
In the Matter of Shawn Green,  
                    Appellant,  
                    v.  
Mark L. Bradt, &c.,  
                    Respondent.

Motion for leave to appeal denied.

4                    Mo. No. 2011-156  
In the Matter of Otto  
Harnischfeger, et al.,  
                    Respondents,  
                    v.  
David Moore, Chief of Police of  
Rochester Police Department,  
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.

3                   Mo. No. 2011-174  
The People &c.,  
                    Respondent,  
                    v.  
Shawn Jordan,  
                    Appellant.

Motion for leave to appeal denied.

1                   Mo. No. 2011-140  
Leslie Kahn,  
                    Appellant,  
                    v.  
New York City Department of  
Education, et al.,  
                    Respondents.

Motion for leave to appeal granted.

1                   Mo. No. 2011-208  
Leslie Kahn,  
                    Appellant,  
                    v.  
New York City Department of  
Education, et al.,  
                    Respondents.

Motion by the New York State United Teachers for leave to file an affirmation amicus curiae on the motion for leave to appeal herein granted and the affirmation is accepted as filed, and for leave to file a brief amicus curiae on the appeal herein granted, three copies of the brief to be served and an original and 19 copies filed within 30 days.

1                   Mo. No. 2011-214  
Leslie Kahn,  
                    Appellant,  
                    v.  
New York City Department of  
Education, et al.,  
                    Respondents.

Motion by the Council of School Supervisors and Administrators for leave to file an affirmation amicus curiae on the motion for leave to appeal herein granted and the affirmation is accepted as filed, and for leave to file a brief amicus curiae on the appeal herein granted, three copies of the brief to be served and an original and 19 copies filed within 30 days.

4                    Mo. No. 2011-169  
In the Matter of Timothy E.  
Lando, Jr.,  
                          Appellant,  
                  v.  
Jessica J. Lando,  
                          Respondent.

Motion for leave to appeal denied.

4                    Mo. No. 2011-168  
The People &c.,  
                          Respondent,  
                  v.  
Kenneth Leier,  
                          Appellant.

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

2                    Mo. No. 2011-162  
In the Matter of Albin Lobaina,  
                          Appellant,  
                  v.  
Human Resources Administration,  
Office of Child Support  
Enforcement,  
                          Respondent.

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

1                    SSD 14  
Janulyn McKanic,  
                          Appellant,  
                  v.  
Amigos del Museo del Barrio,  
                          Respondent.

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

1                    Mo. No. 2011-172  
James L. Melcher,  
                          Appellant,  
                  v.  
Apollo Medical Fund Management  
L.L.C. et al.,  
                          Respondents.

Motion for leave to appeal dismissed  
upon the ground that the orders sought  
to be appealed from do not finally  
determine the action within the  
meaning of the Constitution.

3                   Mo. No. 2011-114  
In the Matter of Danny Montes,  
                  Appellant,  
                  v.  
Norman Bezio, &c.,  
                  Respondent.

Motion for leave to appeal granted.  
Motion for poor person relief granted.

2                   SSD 15  
In the Matter of Orange County  
Department of Social Services, on  
Behalf of Doris Zieran,  
                  Respondent,  
                  v.  
Mark Marvin,  
                  Appellant.

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

4                   Mo. No. 2011-139  
In the Matter of Yasiel P.  
  
Erie County Department of Social  
Services,  
                  Respondent;  
Lisuan P.,  
                  Appellant.

Motion for leave to appeal denied.

1                   Mo. No. 2011-157  
In the Matter of Louis J. Posner,  
&c.  
  
Departmental Disciplinary  
Committee for the First Judicial  
Department,  
                  Respondent;  
Louis J. Posner,  
                  Appellant.

Motion for leave to appeal denied.



3                   Mo. No. 2011-129  
In the Matter of David Rikard,  
                    Appellant,  
                    v.  
Sheila Matson,  
                    Respondent.  
(And Four Other Related  
Proceedings.)

Motion for leave to appeal denied.

3                   Mo. No. 2011-159  
In the Matter of David Rikard,  
                    Appellant,  
                    v.  
Sheila Matson,  
                    Respondent.  
(And Four Other Related  
Proceedings.)

Motion to vacate stay granted.

1                   Mo. No. 2011-125  
RNK Capital LLC, et al.,  
                    Appellants,  
                    v.  
Natsource LLC, et al.,  
                    Respondents,  
et al.,  
                    Defendant.

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

1                   Mo. No. 2011-146  
In the Matter of Destiny S., &c.  
  
Hilda S.,  
                    Appellant,  
Saint Dominic's Home,  
                    Respondent.

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

4                   Mo. No. 2011-167  
In the Matter of Sean S.  
  
Oneida County Department of  
Social Services,  
                    Respondent;  
Tina S., Also Known As Tina G.,  
                    Appellant.

Motion for leave to appeal denied.

1                   Mo. No. 2011-170  
In the Matter of Alessandro  
Spano,  
                    Appellant,  
                    v.  
New York State Racing and  
Wagering Board,  
                    Respondent.

Motion for leave to appeal denied.

3                   Mo. No. 2011-151  
In the Matter of Injah Tafari,  
                    Appellant,  
                    v.  
Brian Fischer, &c.,  
                    Respondent.  
Appellate Division No. 507707

Motion for leave to appeal denied.

3                   Mo. No. 2011-152  
In the Matter of Injah Tafari,  
                    Appellant,  
                    v.  
Brian Fischer, &c.,  
                    Respondent.  
Appellate Division No. 507583

Motion for leave to appeal denied.

3                   Mo. No. 2011-153  
In the Matter of Injah Tafari,  
                    Appellant,  
                    v.  
Dale Artus, &c.,  
                    Respondent.  
Appellate Division No. 507585

Motion for leave to appeal denied.

3                   Mo. No. 2011-179  
In the Matter of Darren Williams,  
                    Appellant,  
                    v.  
Norman Bezio, &c.,  
                    Respondent.

Motion for leave to appeal denied.

3                    Mo. No. 2011-148  
In the Matter of Thomas X.,  
et al., &c.

Motion for leave to appeal denied.

Broome County Department of  
Social Services,  
                                  Respondent;  
Megan X.,  
                                  Appellant.

3                    Mo. No. 2011-158  
In the Matter of Beverly YY., &c.

Motion for leave to appeal denied.

Patricia ZZ.,  
                                  Appellant;  
Robert Irving Miller, Jr., &c.,  
et al.,  
                                  Respondents.

3                    Mo. No. 2011-161  
In the Matter of Rocio Zamora,  
                                  Respondent,

Motion to dismiss appeal by New York  
Neurologic Associates et al. denied.

                                  v.  
New York Neurologic Associates et  
al.,  
                                  Appellants.  
Workers' Compensation Board,  
                                  Appellant.

3                    Mo. No. 2011-202  
In the Matter of Rocio Zamora,  
                                  Respondent,

Motion to dismiss appeal by Workers'  
Compensation Board denied.

                                  v.  
New York Neurologic Associates et  
al.,  
                                  Appellants.  
Workers' Compensation Board,  
                                  Appellant.