

June 23, 2011

CASES

No. 91
Commodity Futures Trading
Commission,
Respondent,
v.
Stephen Walsh, et al.,
Defendants,
Janet Walsh,
Appellant.

Securities and Exchange
Commission,
Respondent,
v.
WG Trading Investors, L.P., et
al.,
Defendants,
Robin Greenwood,
Relief Defendant,
Janet Walsh,
Appellant.

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
accordance with the opinion herein.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges
Ciparick, Read and Jones concur.
Judge Pigott dissents in part in an
opinion in which Judge Smith concurs.

2 No. 125
The People &c.,
Respondent,
v.
Richard D. DiGuglielmo,
Appellant.

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

4 No. 97
Farrah Donald,
Appellant,
v.
State of New York,
Respondent.

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

3 No. 140 SSM 24
Shakira Eanes,
 Appellant,
 v.
State of New York,
 Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Pigott and Jones concur.

3 No. 141 SSM 25
Jonathan Orellanes,
 Appellant,
 v.
State of New York,
 Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Pigott and Jones concur.

3 No. 142 SSM 26
Ismael Ortiz, Also Known As Jose Rodriguez,
 Appellant,
 v.
State of New York,
 Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Pigott and Jones concur.

1 No. 99
The RGH Liquidating Trust, &c.,
 Appellant,
 v.
Deloitte & Touche LLP et al.,
 Respondents.

Order, insofar as appealed from, reversed, with costs, order of Supreme Court, New York County, reinstated, and certified question answered in the negative.
Opinion by Judge Read.
Chief Judge Lippman and Judges Ciparick, Graffeo, Pigott and Jones concur.
Judge Smith dissents and votes to affirm in an opinion.

1 No. 127
In the Matter of World Trade
Center Bombing Litigation.

Steering Committee, et al.
 Respondents,
 v.
The Port Authority of New York
and New Jersey,
 Appellant.

Reargument ordered and case set down
for argument on August 24, 2011.
Judges Ciparick, Graffeo, Read, Pigott
and Jones concur.
Chief Judge Lippman and Judge Smith
took no part.

MOTIONS

4 Mo. No. 2011-460
10 Ellicott Square Court
Corporation, &c. et al.,
 Appellants,

v.

Violet Realty, Inc., et al.,
 Respondents.

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

2 Mo. No. 2011-494
In the Matter of Ahmed A., &c.,
 Appellant.

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

3 SSD 22
In the Matter of Carrie B.,
 Appellant,

v.

Josephine B.,
 Respondent.

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

3 Mo. No. 2011-451
In the Matter of Bela Borcsok,
 Appellant,

v.

New York State Board of Parole,
 Respondent.

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

4 Mo. No. 2011-425
The People &c.,
 Respondent,

v.

Tobias Boyland,
 Appellant.

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

4 Mo. No. 2011-480
In the Matter of Loki C. et al.

Cattaraugus County Department of
Social Services,
 Respondent;
Ronnie C.,
 Respondent;
Carol C.,
 Appellant.

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

2 Mo. No. 2011-446
In the Matter of Gale Lee Davis,
 Appellant,
 v.
City of New York Comptroller,
et al.,
 Respondents.

Motion for leave to appeal dismissed
upon the ground that this Court does
not have jurisdiction to entertain it
(see NY Const, art VI, § 3[b]; CPLR
5602).

2 Mo. No. 2011-445
Dental Health Associates,
et al.,
 Appellants,
 v.
Ali Zangeneh,
 Respondent,
et al.,
 Defendants.

Motion for leave to appeal denied.

2 SSD 23
Alice Laraine Dimery,
 Appellant,
 v.
Ulster Savings Bank,
 Respondent.

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.

2 Mo. No. 2011-469
The People &c.,
 Respondent,
 v.
Michael Dunn,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2011-441
Sylvia Flaim,
 Appellant,
 v.
Hex Food, Inc., &c., et al.,
 Respondents,
et al.,
 Defendants.

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

1 Mo. No. 2011-602
The People &c.,
 Respondent,
 v.
Corey Gamble,
 Appellant.

Motion by appellant pro se to relieve
Richard M. Greenberg, Office of the
Appellate Defender, as counsel to the
appellant herein denied.

4 Mo. No. 2011-520
Arlene S. Garland, &c.,
 Appellant,
 v.
RLI Insurance Company,
 Respondent,
et al.,
 Defendant.

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. 2011-618
The People &c.,
 Respondent,
 v.
William George,
 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.

4 Mo. No. 2011-449
In the Matter of Norman E. Green,
 Respondent,
 v.
Jacqueline Bontzolakes,
 Appellant,
(And Other Proceedings.)

Motion for leave to appeal denied.

2 Mo. No. 2011-316
Town of Huntington,
 Respondent,
 v.
County of Suffolk,
 Appellant.

Motion for leave to appeal denied.
Motion for a stay &c. dismissed as
academic.

3 Mo. No. 2011-409
In the Matter of Ariane I.,
 Appellant,
 v.
David I.,
 Respondent.
(And Two Other Related
Proceedings.)

Motion for leave to appeal denied.

4 Mo. No. 2011-461
In the Matter of Tommy R.
Jackson,
 Appellant,
 v.
William Walsh, Onondaga County
Court Judge and William
Fitzpatrick, Onondaga County
District Attorney,
 Respondents.

Motion to vacate this Court's March
31, 2011 dismissal order granted and
appeal reinstated.
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.

 Mo. No. 2011-444
The People &c. ex rel. Valrick
Johnson,
 Appellant,
 v.
Joseph E. McCoy, Superintendent,
&c.,
 Respondent.

Motion for reargument of motion for
leave to appeal dismissed as untimely
(see Rules of Ct of Appeals [22 NYCRR]
§ 500.24[b]).
Motion for poor person relief
dismissed as academic.
Judge Pigott took no part.

1 Mo. No. 2011-670
The People &c.,
 Respondent,
 v.
Saleem Khan,
 Appellant.

Motion, pursuant to CPL 460.60(3), to extend the time for argument or submission of the appeal and to continue the stay granted and stay continued until determination of the appeal.

3 Mo. No. 2011-428
In the Matter of Luyster Creek,
LLC,
 Appellant,
 v.
New York State Public Service
Commission,
 Respondent,
Consolidated Edison Company of
New York, Inc.,
 Respondent.

Motion for leave to appeal granted.
Chief Judge Lippman took no part.

2 Mo. No. 2011-437
In the Matter of Ana Beatriz
Marin, &c., deceased.

Carla Marin, et al.,
 Respondents;
Debra Marin,
 Appellant.

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

4 Mo. No. 2011-464
The People &c. ex rel. David
McCullough,
 Appellant,
 v.
New York State Division of
Parole,
 Respondent.

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

2 Mo. No. 2011-462
Margarita Morales,
 Appellant,
 v.
Perfect Dental, P.C., et al.,
 Respondents.

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as affirmed the July 2009 Supreme Court order, 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.

1 Mo. No. 2011-493
In the Matter of Doreen Nash,
 Appellant,
 v.
The Board of Education of the
City School District of the City
of New York, et al.,
 Respondents.

Motion for leave to appeal granted.

4 Mo. No. 2011-471
In the Matter of the State of New
York,
 Respondent,
 v.
James High,
 Appellant.

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

4 Mo. No. 2011-458
In the Matter of County of
Niagara,
 Respondent,
 v.
Richard F. Daines, &c., et al.,
 Appellants.

Motion for leave to appeal denied.

1 Mo. No. 2011-411
Corlette O'Bryan, et al.,
 Appellants,
 v.
Martha E. Stark, &c., et al.,
 Respondents.

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

2 Mo. No. 2011-357
In the Matter of Deshawn D.O.
(Anonymous).

Administration for Children's
Services,

 Respondent;
Maria T.O. (Anonymous),
 Respondent,
Sidney O. (Anonymous),
 Appellant.

Motion for leave to appeal dismissed
upon the ground that the order sought
to be appealed from, affirming the
fact-finding order, does not finally
determine the proceeding within the
meaning of the Constitution.

2 SSD 24
Town of Oyster Bay,
 Appellant,
 v.
Galen D. Kirkland, &c., et al.
 Respondents.

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

2 Mo. No. 2011-608
The People &c.,
 Appellant,
 v.
James Perry,
 Respondent.

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 respondent
on the appeal herein.

2 Mo. No. 2011-342
In the Matter of Conrad Pons,
 Appellant,
 v.
Anthony J. Annucci, &c.,
 Respondent.

Motion, insofar as it seeks leave to
appeal from the Appellate Division
order denying poor person relief,
dismissed upon the ground that such
order does not finally determine the
proceeding within the meaning of the
Constitution; motion for leave to
appeal otherwise denied.

1 Mo. No. 2011-450
In the Matter of Richard Ronga,
 Appellant,
 v.
Joel I. Klein, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2011-463
John T. Siwula,
 Appellant,
 v.
Town of Hornellsville et al.,
 Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2011-470
In the Matter of Todd M. Smith,
 Respondent,
 v.
Hon. James C. Tormey, &c.,
 Respondent,
County of Onondaga et al.,
 Appellants.

Motion for leave to appeal granted.
Chief Judge Lippman took no part.

2 Mo. No. 2011-629
The People &c.,
 Respondent,
 v.
Raoul South,
 Appellant.

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

3 Mo. No. 2011-457
In the Matter of County of St.
Lawrence,
 Respondent,
 v.
Richard Daines, &c., et al.,
 Appellants.

Motion for leave to appeal denied.

4 Mo. No. 2011-465
In the Matter of the Estate of
Kevin W. Stanley, Deceased.

Diane R. Stanley, &c.,
 Appellant;
Lawrence J. Mattar, Esq., &c., et
al.,
 Respondents.

On the Court's own motion, appeal
dismissed, without costs, upon the
ground that the March 2011 Surrogate's
Court order appealed from does not
finally determine the proceeding
within the meaning of the
Constitution.
Motion for leave to appeal dismissed,
without costs, upon the ground that
the March 2011 Surrogate's Court order
sought to be appealed from does not
finally determine the proceeding
within the meaning of the
Constitution.

3 Mo. No. 2011-442
In the Matter of Trestin T., &c.

Cortland County Department of
Social Services,
 Respondent;
Shawn U.,
 Appellant.
(And Another Related Proceeding.)

Motion for leave to appeal denied.

1 Mo. No. 2011-466
Veritas Capital Management,
L.L.C., et al.,
 Plaintiffs,
 v.
Thomas J. Campbell,
 Defendant.

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.

Thomas J. Campbell,
 Appellant,
 v.
Robert B. McKeon,
 Respondent,
et al.,
 Defendants.

2 Mo. No. 2011-422
Sherrie Weaver,
 Claimant,
David Sheps, &c.,
 Appellant,
 v.
State of New York,
 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. 2011-642
The People &c.,
 Respondent,
 v.
Tony William,
 Appellant.

Motion for assignment of counsel
granted and Richard M. Greenberg,
Esq., Office of the Appellate
Defender, 11 Park Place, Suite 1601,
New York, NY 10007 assigned as counsel
to the appellant on the appeal herein.

1 Mo. No. 2011-410
Myron Zuckerman,
 Respondent,
 v.
Sydell Goldstein, 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 action within the
meaning of the Constitution.