

March 29, 2011

**CASES**

2                    No. 121    SSM 5  
William B. Clarke,  
                      Respondent,  
                      v.  
Rafael Rodriguez,  
                      Appellant.

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

2                    No. 59  
The People &c.,  
                      Respondent,  
                      v.  
Michael Duhs,  
                      Appellant.

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

4                    No. 49  
Griffith Oil Company, Inc., Big  
Flats Realty, Inc., and E.  
Phillip Saunders, as Trustee,  
                      Respondents,  
                      v.  
National Union Fire Insurance  
Company of Pittsburgh, PA.,  
                      Appellant,  
et al.,  
                      Defendants.

Appeal withdrawn pursuant to stipulation of the parties.

4                    No. 42  
The People &c.,  
                      Respondent,  
                      v.  
Hadji S. Hill,  
                      Appellant.

Order reversed, defendant's plea vacated and case remitted to Monroe County Court for further proceedings on the indictment, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

4                    No. 37  
In the Matter of Robert P.  
Meegan, Jr., &c. et al.,  
                         Respondents,  
                         v.  
Byron W. Brown, &c., et al.,  
                         Appellants.  
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In the Matter of Joseph E. Foley,  
&c. et al.,  
                         Respondents,  
                         v.  
Byron W. Brown, &c., et al.,  
                         Appellants.  
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Buffalo Teachers Federation,  
Inc., et al.,  
                         Respondents,  
                         v.  
Buffalo Board of Education for  
City School District of City of  
Buffalo et al.,  
                         Appellants.

Order reversed, with costs, the amended petitions in Matter of Meegan v Brown and Matter of Foley v Brown dismissed, and judgment granted to defendants in Buffalo Teachers Federation, Inc. v Buffalo Board of Education declaring in accordance with the opinion. Opinion by Judge Pigott. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith and Jones concur.

3                    No. 33  
In the Matter of National Fuel  
Gas Distribution Corporation,  
                         Respondent,  
                         v.  
Public Service Commission of the  
State of New York,  
                         Appellant.

Judgment affirmed, with costs. Opinion by Judge Graffeo. Judges Ciparick, Read and Jones concur. Chief Judge Lippman dissents and votes to reverse in an opinion in which Judges Smith and Pigott concur.

3                    No. 120    SSM 3  
The People &c.,  
                         Respondent,  
                         v.  
Tiray M. Paige,  
                         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.

1                   No. 41  
The People &c.,  
                  Respondent,  
          v.  
James Phillips,  
                  Appellant.

Order affirmed.  
Opinion by Judge Jones.  
Judges Ciparick, Graffeo, Read, Smith  
and Pigott concur.  
Chief Judge Lippman dissents and votes  
to reverse in an opinion.

2                   No. 40  
State Farm Mutual Automobile  
Insurance Company,  
                  Respondent-Appellant,  
          v.  
John Robert Langan, &c.,  
                  Appellant-Respondent.

Order modified, without costs, by  
granting defendant judgment declaring  
in accordance with the opinion and  
remitting to Supreme Court, Nassau  
County, for further proceedings in  
accordance with the opinion herein,  
and, as so modified, affirmed.  
Certified question answered in the  
negative.  
Opinion by Chief Judge Lippman.  
Judges Ciparick, Graffeo, Pigott and  
Jones concur.  
Judge Smith dissents and votes to  
affirm in an opinion in which Judge  
Read concurs.

**MOTIONS**

4 Mo. No. 2011-91 Motion for leave to appeal denied.  
The People &c.,  
Respondent,  
v.  
Enrico Alvarado,  
Appellant.

2 Mo. No. 2011-100 Motion for leave to appeal denied with  
Cecilia Azumally et al., one hundred dollars costs and  
Appellants, necessary reproduction disbursements.  
v.  
16 West 19th LLC, et al.,  
Respondents,  
et al.,  
Defendant.

2 Mo. No. 2011-80 Motion by Amine Baba-Ali for leave to  
Amine Baba-Ali, appeal granted.  
Appellant,  
v.  
State of New York,  
Respondent.

2 Mo. No. 2011-144 Motion by State of New York for leave  
Amine Baba-Ali, to appeal granted.  
Respondent,  
v.  
State of New York,  
Appellant.

2 SSD 9 Appeal dismissed without costs, by the  
The People &c. ex rel. Kenneth Court sua sponte, upon the ground that  
Bazil, no substantial constitutional question  
Appellant, is directly involved.  
v.  
Luis Marshall, &c.,  
Respondent.

2                   Mo. No. 2011-75  
Estate of Robert E. Becker,  
                    Appellant,  
et al.,  
                    Plaintiffs,  
                    v.  
Owen J. Murtagh, et al.,  
                    Respondents.

Motion for leave to appeal granted.

3                   Mo. No. 2011-69  
In the Matter of Shango Blake,  
                    Appellant,  
                    v.  
Richard Mills, &c., et al.,  
                    Respondents.

Motion for leave to appeal denied.

3                   Mo. No. 2011-73  
In the Matter of Robert Boehm  
et al.,  
                    Appellants,  
                    v.  
Andrea Evans, &c.,  
                    Respondent.

Motion for leave to appeal denied.

3                   Mo. No. 2011-110  
In the Matter of Robert Boehm  
et al.,  
                    Appellants,  
                    v.  
Andrea Evans, &c.,  
                    Respondent.

Motion by the New York Civil Liberties  
Union Foundation for leave to file a  
brief amicus curiae on the motion for  
leave to appeal herein granted and the  
brief is accepted as filed, and for  
leave to file a brief amicus curiae on  
the appeal herein dismissed as  
academic.

2                   Mo. No. 2011-66  
Maria Calderon,  
                    Appellant,  
                    v.  
Evergreen Owners, Inc., et al.,  
                    Respondents.

Motion for reargument of motion for  
leave to appeal denied.

3                    Mo. No. 2011-44  
Belinda Chaner,  
                    Appellant,  
                    v.  
Paul Calarco et al.,  
                    Respondents.

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

3                    Mo. No. 2011-94  
In the Matter of Roberto  
Ciaprazi,  
                    Appellant,  
                    v.  
Anthony J. Annucci, &c., et al.,  
                    Respondents.

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

4                    Mo. No. 2011-77  
In the Matter of Joshua M.  
Harnanto,  
                    Respondent,  
                    v.  
Yvonne Gandasaputra,  
                    Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2011-68  
Steven Heller, &c.,  
                    Appellant,  
                    v.  
Jed Jacob Weinberg, &c., et al.,  
                    Respondents.

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

3                    Mo. No. 2011-54  
In the Matter of Lloyd Nelson X  
Jones,  
                    Appellant,  
                    v.  
Brian Fischer, &c.,  
                    Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2011-92  
In the Matter of Cain Keel L.  
et al., &c.,  
  
Derzerina L.,  
                    Appellant,  
The New York Foundling Hospital,  
                    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.

4                    Mo. No. 2011-90  
The People &c.,  
                    Respondent,  
  
                    v.  
Roberto Maldonado,  
                    Appellant.

Motion for leave to appeal denied.

3                    Mo. No. 2011-57  
In the Matter of Charles  
McAllister,  
                    Appellant,  
  
                    v.  
New York State Division of  
Parole,  
                    Respondent.

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

2                    Mo. No. 2011-93  
The People &c.,  
                    Respondent,  
  
                    v.  
Lino Mendez,  
                    Appellant.

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

2                    Mo. No. 2011-132  
Mount Vernon City School  
District,  
                    Respondent-Appellant,  
  
                    v.  
Nova Casualty Company,  
                    Appellant-Respondent,  
et al.,  
                    Defendant.

Motion by Nova Casualty Company for  
leave to appeal granted.  
Motion by Mount Vernon City School  
District for leave to appeal granted.

3                   Mo. No. 2011-87  
In the Matter of Micah NN.,  
                    Respondent,  
                    v.  
Kristy NN.,  
                    Appellant.  
(And Another Related Proceeding.)

Motion for leave to appeal denied.

1                   Mo. No. 2011-65  
In the Matter of Paul Antoine  
Devontae R., &c., et al.

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

Catholic Guardian Society and  
Home Bureau,  
                    Respondent,  
Paul R.,  
                    Appellant.

4                   Mo. No. 2011-39  
Randy Ratajczak, as Administrator  
of the Estate of Mary Ratajczak,  
                    Respondent,  
                    v.  
Mahmood Yoonessi, M.D. and  
Mahmood Yoonessi, M.D., P.C.,  
                    Appellants.  
(And A Third Party Action.)

Motion for reconsideration of this  
Court's November 23, 2010 dismissal  
order denied.  
Motion, insofar as it seeks  
disqualification of Chief Judge  
Lippman, dismissed upon the ground  
that the Court has no authority to  
entertain the motion made on  
nonstatutory grounds.  
The application seeking recusal is  
referred to the Chief Judge for his  
individual consideration and  
determination.  
Chief Judge Lippman denies the  
referred motion for recusal.

2                   Mo. No. 2011-58  
Peter Redman,  
                    Appellant,  
                    v.  
South Island Orthopaedic Group,  
P.C., et al.,  
                    Respondents.

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



2                   Mo. No. 2011-96  
The People &c.,  
                    Respondent,  
                    v.  
Raymond Rodriguez,  
                    Appellant.

Motion for leave to appeal denied.

1                   Mo. No. 2011-49  
In the Matter of Arelis  
Carmen S.,  
                    Respondent,  
                    v.  
Daniel H.,  
                    Appellant.

Motion for leave to appeal denied.

4                   Mo. No. 2011-84  
Ivette Sheyanne Simmons, &c.,  
et al.,  
                    Appellants,  
                    v.  
Brooklyn Hospital Center, et al.,  
                    Respondents,  
et al.,  
                    Defendants.

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

1                   Mo. No. 2011-61  
June Slates,  
                    Appellant,  
                    v.  
New York City Housing Authority,  
et al.,  
                    Respondents,  
The City of New York,  
                    Defendant.

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

2                   Mo. No. 2011-82  
The People &c.,  
                    Respondent,  
                    v.  
Benny Smith,  
                    Appellant.

Motion for leave to appeal denied.

Mo. No. 2011-63  
The People &c.,  
Respondent,  
v.  
John Suggs,  
Appellant.

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

2 Mo. No. 2011-97  
The People &c.,  
Respondent,  
v.  
Jay Taylor,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2011-98  
Derek A. Thomas &c.,  
Appellant,  
v.  
Pleasantville Union Free School  
District, et al.,  
Respondents.

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

3 Mo. No. 2011-83  
In the Matter of Judy UU.,  
Appellant,  
v.  
Troy SS.,  
Respondent,  
et al.,  
Respondent.  
(And Two Other Related  
Proceedings.)

Motion for leave to appeal denied.

1 Mo. No. 2011-88  
Alexandre Van Damme,  
Respondent,  
v.  
Nahum Gelber,  
Appellant,  
Arij Gasiunasen Fine Art of Palm  
Beach, Inc., &c.,  
Respondent.  
(And a Third-Party Action.)

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

4                   Mo. No. 2011-70  
In the Matter of Charity W.

Onondaga County Department of  
Social Services,  
                    Respondent;  
Sharon P.,  
                    Appellant.

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

4                   Mo. No. 2011-89  
In the Matter of Norma Warrior,  
                    Respondent,  
                    v.  
Robert E. Beatman, Sr.,  
                    Appellant.

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.  
Judge Pigott took no part.