

May 05, 2011

CASES

1	No. 77	Order reversed, defendant's motion to suppress granted and indictment dismissed.
The People &c.,	Respondent,	Opinion by Judge Pigott.
	v.	Chief Judge Lippman and Judges
Ernest Brannon,	Appellant.	Ciparick, Graffeo, Read and Smith concur.
		Judge Jones concurs in result in an opinion.
2	No. 69	Order affirmed, with costs.
In the Matter of Afton C.		Opinion by Judge Ciparick.
(Anonymous).		Chief Judge Lippman and Judges Read, Smith, Pigott and Jones concur.
Dutchess County Department of Social Services,	Appellant;	Judge Graffeo concurs in result in an opinion.
James C. (Anonymous), et al.,	Respondents.	
(And Four Other Proceedings.)		
3	No. 82	Order affirmed.
The People &c.,	Respondent,	Opinion by Judge Read.
	v.	Chief Judge Lippman and Judges
Luis Feliciano,	Appellant.	Ciparick, Graffeo, Smith, Pigott and Jones concur.
1	No. 78	Order affirmed.
The People &c.,	Respondent,	Opinion by Judge Pigott.
	v.	Chief Judge Lippman and Judges
Jose Fernandez,	Appellant.	Ciparick, Graffeo, Read and Smith concur.
		Judge Jones dissents in an opinion.

1 No. 144 SSM 8
The People &c.,
 Respondent,
 v.
Rolando Herrera,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed (see People v Fernandez, ___ NY3d ___ [decided today]). Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith and Pigott concur. Judge Jones dissents for reasons stated in his dissenting opinion in People v Fernandez (___ NY3d ___ [decided today]).

1 No. 74
In the Matter of Eddy Marte, et
al.,
 Appellants,
 v.
Hon. Carol Berkman, &c., et al.,
 Respondents.

Judgment affirmed, without costs, and certified question not answered upon the ground that it is unnecessary, in a memorandum. Judges Graffeo, Read, Smith, Pigott and Jones concur. Judge Ciparick dissents and votes to reverse in an opinion in which Chief Judge Lippman concurs.

MOTIONS

1 Mo. No. 2011-300
Abacus Federal Savings Bank,
 Appellant,
 v.
ADT Security Services, Inc.,
et al.,
 Respondents,
Holmes Protection of New York,
Inc., et al.,
 Defendants.

Motion for leave to appeal granted.

1 Mo. No. 2011-326
Isidro Abascal,
 Appellant,
 v.
The City of New York,
 Respondent.

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

1 Mo. No. 2011-472
ABN AMRO Bank, N.V. et al.,
 Appellants,
Barclays Bank PLC, et al.
 Plaintiffs,
 v.
MBIA Inc., et al.,
 Respondents.

Motion by New York Civil Liberties Union et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served and 19 copies filed within seven days.

1 Mo. No. 2011-484
ABN AMRO Bank, N.V. et al.,
 Appellants,
Barclays Bank PLC, et al.
 Plaintiffs,
 v.
MBIA Inc., et al.,
 Respondents.

Motion by Patrick J. Borchers et al. for leave to appear amici curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed.

1 Mo. No. 2011-485
ABN AMRO Bank, N.V. et al.,
 Appellants,
Barclays Bank PLC, et al.
 Plaintiffs,
 v.
MBIA Inc., et al.,
 Respondents.

Motion by Aurelius Capital Master Ltd.
et al. for leave to appear amici
curiae on the appeal herein granted
only to the extent that the proposed
brief is accepted as filed.

2 Mo. No. 2011-309
In the Matter of Al-Ber, Inc.,
&c.,
 Appellant,
 v.
New York City Department of
Finance, et al.,
 Respondents.

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

3 Mo. No. 2011-374
In the Matter of Ramon Alvarez,
 Appellant,
 v.
New York State Division of Parole
et al.,
 Respondents.

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

1 Mo. No. 2011-349
In the Matter of American
Airlines, Inc.,
 Appellant,
 v.
The New York City Tax Appeals
Tribunal, et al.,
 Respondents.

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

4 Mo. No. 2011-269
In the Matter of Tracy Anderson,
 Appellant,
 v.
Sarah Roncone,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2011-295
In the Matter of BDO USA, LLP,
 Appellant,
 v.
Denis M. Field,
 Respondent.

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

4 Mo. No. 2011-175
In the Matter of Peter E.
Bissell,
 Appellant,
 v.
Town of Amherst, et al.,
 Respondents.

Motion for leave to appeal granted.

1 Mo. No. 2011-103
In the Matter of Christy C., &c.,

Roberto C.,
 Appellant,
Administration for Children's
Services,
 Respondent.

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

3 Mo. No. 2011-317
In the Matter of Daniel Carter,
 Appellant,
 v.
Andrea Evans, &c.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2011-303
The People &c.,
 Respondent,
 v.
Jeffrey Chandler,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2011-336
In the Matter of Michael Chenkin,
 Appellant,
 v.
New York City Council,
 Respondent.

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

2 Mo. No. 2011-200
Christopher Coleman, &c.,
 Appellant,
 v.
Putnam Hospital Center, et al.,
 Respondents,
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.

3 Mo. No. 2011-178
In the Matter of Matthew Crisera,
 Appellant,
 v.
New York State Comptroller
et al.,
 Respondents.

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

3 Mo. No. 2011-359
In the Matter of Christopher
Culver,
 Respondent,
 v.
Kristi VanPatten Culver,
 Appellant.

On the Court's own motion, 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]).
Motion for a stay dismissed as
academic.

4 Mo. No. 2011-452
Farrah Donald,
 Appellant,
 v.
State of New York,
 Respondent.

Motion by Legal Aid Society, Criminal
Appeals Bureau and Parole Revocation
Defense Unit, for leave to file a
brief amicus curiae on the appeal
herein granted and the proposed brief
is accepted as filed. Two copies of
the brief must be served and 19 copies
filed within seven days.

2 Mo. No. 2011-263
Eurovision 426 Development, LLC,
 Respondent,
 v.
26-01 Astoria Development, LLC,
 Appellant,
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. 2011-181
In the Matter of Max F.
(Anonymous), Jr.

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

Nassau County Department of
Social Services,
 Respondent;
Emma F. (Anonymous),
 Appellant.
(And Another Proceeding.)

4 Mo. No. 2011-443
The People &c.,
 Respondent,
 v.
Aaron Richard Fisher,
 Appellant.

Motion for assignment of counsel granted and Timothy P. Donaher, Esq., Monroe County Public Defender, 10 N. Fitzhugh Street, Rochester, NY 14614 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2011-327
In the Matter of Hector Gonzalez,
 Appellant,
 v.
New York City Housing Authority,
 Respondent.

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

3 Mo. No. 2011-302
Robert H. Hamilton et al.,
 Respondents,
 v.
David Murphy,
 Appellant.

Motion for reargument of motion for leave to appeal denied.

1 Mo. No. 2011-312
In the Matter of Hells Kitchen
Neighborhood Association, et al.,
 Appellants,
 v.
The City of New York, et al.,
 Respondents.

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

3 Mo. No. 2011-189
Charles M. Hill,
 Appellant,
 v.
Kyle M. Carpenter et al.,
 Defendants,
County of Montgomery,
 Respondent.

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

1 Mo. No. 2011-298
Al G. Hill, III,
 Appellant,
 v.
Theodate Coates,
 Respondent.

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

3 Mo. No. 2011-238
In the Matter of Island Waste
Services, Ltd.,
 Appellant,
 v.
Tax Appeals Tribunal of the State
of New York, et al.,
 Respondents.

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

 Mo. No. 2011-376
In the Matter of Tommy R.
Jackson,
 Appellant,
 v.
The State of New York,
 Respondent.

Motion for leave to appeal dismissed
upon the ground that this motion does
not properly lie to the Court of
Appeals directly from the judgment of
Supreme Court (see CPLR 5602).
Motion for poor person relief
dismissed as academic.

1 Mo. No. 2011-60
Michael Klussman, et al.,
 Appellants,
 v.
A.T. Reynolds & Sons, Inc.,
et al.,
 Respondents,
et al.,
 Defendants.

Motion for leave to appeal denied.

4 Mo. No. 2011-195
In the Matter of Lisa Kramer,
 Respondent,
 v.
Ken Berardicurti,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2011-282
In the Matter of Rachel M. Lowe,
 Appellant,
 v.
Charles H. O'Brien, Jr.,
 Respondent.
(And Three Other Related
Proceedings.)

Motion for leave to appeal denied.

1 Mo. No. 2011-260
In the Matter of Metropolitan
Transportation Authority, &c.

192 Broadway Jewelers, Inc., &c.,
 Appellant,
 v.
Metropolitan Transportation
Authority,
 Respondent.

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

2 Mo. No. 2011-311
In the Matter of Tina Minus,
 Respondent,
 v.
Tori S. Lannaman,
 Appellant.

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

4 Mo. No. 2011-338
In the Matter of Niagara Frontier
Transportation Authority,
 Appellant,
 v.
International Longshoremen's
Association Local 1949,
 Respondent.

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

4 Mo. No. 2011-267
The People &c.,
 Respondent,
 v.
Chester Parker,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2011-477
The People &c.,
 Respondent,
 v.
David Lance Paulin,
 Appellant.

Motion by New York City Bar
Association for leave to appear amicus
curiae on the appeals herein granted
only to the extent that the proposed
brief is accepted as filed.

The People &c.,
 Respondent,
 v.
Jesus Pratts,
 Appellant.

4 Mo. No. 2011-277
Donna Ponholzer et al.,
 Respondents,
 v.
Edward D. Simmons, M.D., 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.

2 Mo. No. 2011-276
Joseph Rodrigues, &c.,
 Appellant,
et al.,
 Plaintiffs,
 v.
Village of Ossining, et al.,
 Defendants,
R. Barlaam,
 Respondent.

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

3 Mo. No. 2011-314
In the Matter of Jennifer
Sniffen,
 Respondent,
 v.
Arthur Weygant,
 Appellant.
(And Two Other Related
Proceedings.)

On the Court's own motion, appeal
dismissed, without costs, upon the
ground that the order 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. 2011-313
In the Matter of Jamal Uddin,
 Appellant,
 v.
NYC/Human Resources
Administration,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2011-177
Evanthia Valiotis,
 Respondent,
 v.
Antonios Psaroudis, et al.,
 Defendants,
Constantino Psaroudis,
 Appellant.

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

4 Mo. No. 2011-352
In the Matter of Holden W.

Motion for leave to appeal denied.

Cattaraugus County Department of
Social Services,
 Respondent;
Kelly W.,
 Appellant.