

May 10, 2011

CASES

1 No. 81
Yun Tung Chow, et al.,
 Appellants,
 v.
Reckitt & Colman, Inc., et al.,
 Respondents,
55th Realty Inc.,
 Defendant.
(And Other Actions)

Order reversed, with costs, and motion of defendants-respondents for summary judgment denied.
Opinion by Chief Judge Lippman. Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur, Judge Smith in a separate concurring opinion in which Judge Read concurs.

2 No. 83
The People &c.,
 Appellant,
 v.
Robert Franov,
 Respondent.

Order, insofar as appealed from, reversed, defendant's conviction of unauthorized use of a vehicle in the second degree reinstated and case remitted to the Appellate Division, Second Department, for consideration of the facts (see CPL 470.25[2][d]; 470.40[2][b]).
Opinion by Judge Graffeo. Chief Judge Lippman and Judges Ciparick and Read concur.
Judge Smith concurs in result in an opinion.
Judge Jones dissents and votes to affirm in an opinion in which Judge Pigott concurs.

1 No. 79
The People &c.,
 Respondent,
 v.
Kenneth Hayes,
 Appellant.

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

1 No. 146 SSM 11
Joyce Henderson,
 Respondent,
 v.
Manhattan and Bronx Surface
Transit Operating Authority,
et al.,
 Appellants,
et al.,
 Defendants.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and the certified question answered in the affirmative. Appellants failed to comply with the conditional order. Therefore, the courts below did not err in striking appellants' answer. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

2 No. 76
In the Matter of Miguel M.
(Anonymous), &c.,
 Appellant;
Charles Barron, &c.,
 Respondent.

Order reversed, with costs, and matter remitted to Supreme Court, Queens County, for further proceedings in accordance with the opinion herein. Opinion by Judge Smith. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Pigott and Jones concur.

2 No. 15
The People &c.,
 Respondent,
 v.
Roy Martin, Also Known as
Reality Martin,
 Appellant.

Order reversed and a new trial ordered. Opinion by Judge Ciparick. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Jones concur.

MOTIONS

3 Mo. No. 2011-239
John L. Bell, &c.,
 Appellant,
 v.
David R. White 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.

4 Mo. No. 2011-339
In the Matter of Derrick C.,
et al.

Jefferson County Department of
Social Services,
 Respondent;
Steven C.,
 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.

1 Mo. No. 2011-403
In the Matter of Norman Leonard
Cousins, An Attorney and
Counselor-at-Law:

Departmental Disciplinary
Committee for the First Judicial
Department,
 Respondent,
Norman Leonard Cousins,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2011-299
Benjamin Cunningham,
 Appellant,
 v.
David Newman, M.D., et al.,
 Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2011-305
Christina M. DeLorenzo,
 Respondent,
 v.
Peter A. DeLorenzo,
 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. Judge Pigott took no part.

1 Mo. No. 2011-264
Nora Teresa Devlin, et al.,
 Appellants,
 v.
Blaggards III Restaurant Corp.,
&c., et al.,
 Respondents.

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

3 Mo. No. 2011-329
In the Matter of Susan Falkouski,
 Appellant,
 v.
City of Rensselaer Fire
Department 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. 2011-390
Habitat, Ltd.,
 Appellant,
 v.
The Art of the Muse, Inc., &c.,
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.

3 Mo. No. 2011-307
In the Matter of Harvey Hardy,
 Claimant,
 v.
Trico et al.,
 Appellants,
et al.,
 Respondent.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal granted.

3 Mo. No. 2011-324
In the Matter of Regan Horike,
 Respondent,
 v.
Mark Freedman,
 Appellant.
(And Another Related Proceeding.)

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that affirmed the Family Court order denying appellant's application, denied; motion for leave to appeal otherwise dismissed upon the ground that the remaining portion of the Appellate Division order does not finally determine the proceeding within the meaning of the Constitution.

2 Mo. No. 2011-353
The People &c.,
 Respondent,
 v.
Waine Howell,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2011-321
Imtiaz A. Ishmail, et al.,
 Appellants,
 v.
ATM Three, LLC, et al.,
 Respondents,
et al.,
 Defendants.

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

1 Mo. No. 2011-133
In the Matter of John Jay College
of Criminal Justice of the City
University of New York.

River Center LLC, et al.,
 Appellants,

v.

The Dormitory Authority of the
State of New York,
 Respondent.

Motions, insofar as they seek leave to
appeal from so much of the Appellate
Division order as affirmed Supreme
Court's order denying River Center
LLC's motion to reopen, dismissed upon
the ground that such portion of the
Appellate Division order does not
finally determine the proceeding
within the meaning of the
Constitution; motions for leave to
appeal otherwise denied.

1 Mo. No. 2011-147
In the Matter of John Jay College
of Criminal Justice of the City
University of New York.

River Center LLC, et al.,
 Appellants,

v.

The Dormitory Authority of the
State of New York,
 Respondent.

Motion by the Real Estate Board of the
State of New York, Inc. for leave to
file a brief amicus curiae in support
of the motion for leave to appeal
herein granted and the brief is
accepted as filed.

4 Mo. No. 2011-286
In the Matter of Robert E. Jones,
 Appellant,

v.

Theresa Laird,
 Respondent.

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

4 Mo. No. 2011-287
In the Matter of Robert E. Jones,
 Appellant,
 v.
Theresa M. Laird,
 Respondent.

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

In the Matter of Theresa M.
Laird,
 Respondent,
 v.
Robert E. Jones,
 Appellant.

2 Mo. No. 2011-294
Robert J. Kaplowitz,
 Appellant,
 v.
Connecticut General Life
Insurance Company, et al.,
 Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2011-333
Resat Keles,
 Appellant,
 v.
The Trustees of Columbia
University in the City of New
York, 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.

3 Mo. No. 2011-241
Cary Kittner, &c., et al.,
 Appellants,
 v.
Eastern Mutual 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.

1 Mo. No. 2011-334
Stella Lewis, et al.,
 Appellants,
 v.
The City of New York,
 Respondent,
The New York City Transit
Authority, et al.,
 Defendants.

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

3 Mo. No. 2011-320
In the Matter of Victorious LL.,
&c.,

Ulster County Department of
Social Services,
 Respondent;
Jonathan LL.,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2011-273
Luis Mejia,
 Appellant,
 v.
The State of New York,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2011-215
Luis R. Morales, &c.,
 Appellant,
 v.
Marisa L. Cox, et al.,
 Respondents,
Robert Ingrassia, et al.,
 Defendants.

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

2 Mo. No. 2011-265
Vladimir Nabutovsky, et al.,
 Appellants,
 v.
Burlington Insurance Company,
 Respondent.

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

2 Mo. No. 2011-348
Americo Pellechia,
 Appellant,
 v.
Partner Aviation Enterprises,
Inc., &c.,
 Respondent.

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.

3 Mo. No. 2011-217
In the Matter of Yvonne Pratt,
 Appellant,
 v.
Long Island Jewish Medical
et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

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

4 SSD 18
Progressive Northeastern
Insurance Company,
 Plaintiff,
 v.
State Farm Insurance Companies,
et al.,
 Defendants,
Gabe's Auto,
 Appellant,
Charter Oak Fire Insurance
Company,
 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 (see CPLR 5601).

1 Mo. No. 2011-245
In the Matter of Selena R.
et al., &c.

Angela T.,
 Respondent,

Joseph L.,
 Appellant,
The Administration for Children's
Services,
 Respondent.

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

4 Mo. No. 2011-337 Motion for leave to appeal denied.
The People &c.,
 Respondent,
 v.
George E. Rogers,
 Appellant.

2 Mo. No. 2011-363 Motion for leave to appeal denied.
Tarek Youssef Hassan Saleh, &c.,
 Appellant,
 v.
New York Post, et al.,
 Respondents.

3 Mo. No. 2011-306 Motion for leave to appeal granted.
In the Matter of Larry J. Salgy,
 Claimant,
 v.
Halsted Communications et al.,
 Appellants,
et al.,
 Respondent.
Workers' Compensation Board,
 Respondent.

1 Mo. No. 2011-257 Motion for leave to appeal dismissed
Mirna Samuel et al.,
 Appellants,
 v.
Macy's Northeast, Inc.,
 Respondent.
upon the ground that this Court does
not have jurisdiction to entertain the
motion from the order of the Appellate
Term (see CPLR 5602[a]).

4 Mo. No. 2011-262 Motion for leave to appeal denied.
In the Matter of Nicholas S.

Onondaga County Department of
Social Services,
 Respondent;
Benjamin S.,
 Appellant.
Motion for poor person relief
dismissed as academic.

2 Mo. No. 2011-319
Brandon Schleef, &c., et al.,
 Appellants,
 v.
Riverhead Central School
District, et al.,
 Respondents.

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

3 Mo. No. 2011-290
In the Matter of Wayne Schmidt,
 Respondent,
 v.
Falls Dodge, Inc. et al.,
 Appellants.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal granted.

4 Mo. No. 2011-325
In the Matter of Joseph
Srozenski, Deceased.

Susan Porcelli et al.,
 Respondents;
Robert Srozenski,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2011-246
In the Matter of Rudranu
Toolasprashad,
 Respondent,
 v.
Raymond W. Kelly, &c., et al.,
 Appellants.

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

4 Mo. No. 2011-285
The People &c. ex rel. Glenn E.
Van Norstrand,
 Appellant,
 v.
Harold D. Graham, &c.,
 Respondent.

Motion, insofar as it seeks leave to appeal from the Appellate Division order dismissing the appeal from the order of Supreme Court that denied appellant's motion for a stay and reconsideration, 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. Judge Pigott took no part.

1 Mo. No. 2011-315
Vistra Trust Company (Jersey)
Limited as Trustee of the Alsam,
Colleen and Logany Settlements,
et al.,
 Respondents,
 v.
Dr. Marco Stoffel, et al.,
 Appellants.

On the Court's own motion, appeal, insofar as taken from the Appellate Division order denying reargument or, in the alternative, leave to appeal to the Court of Appeals, dismissed, without costs, upon the ground that such order does not finally determine the action within the meaning of the Constitution; appeal otherwise dismissed, without costs, upon the ground that no substantial constitutional question is directly involved. Motion, insofar as it seeks leave to appeal from the Appellate Division order denying reargument or, in the alternative, leave to appeal to the Court of Appeals, dismissed, without costs, 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. Motions for poor person relief and a stay dismissed as academic.

3 Mo. No. 2011-310
Jianrong Wang,
 Respondent,
 v.
Shao Ke et al.,
 Appellants,
et al.,
 Defendant.

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