

April 30, 2009

CASES

No. 69

The People &c.,
Respondent,
v.
Juan Carlos Aleman,
Appellant.

Order reversed and a new trial ordered,
in a memorandum.

Chief Judge Lippman and Judges
Ciparick, Graffeo, Read, Smith, Pigott
and Jones concur.

No. 51

Jesus Fuentes, as a Parent of a
Disabled Child,
Appellant,
v.
Board of Education of the City of
New York, Barry Mastellone,
Administrator of the HHVI of the
Board of Education of the City of
New York, and Denise Washington,
Chief Administrator of the
Impartial Hearing Office of the
Board of Education of the City of
New York,
Respondents.

Following certification of a question
by the United States Court of Appeals
for the Second Circuit and acceptance
of the question 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 question,
as reformulated, answered in the
negative.

Opinion by Judge Jones.
Judges Ciparick, Graffeo, Read, Smith
and Pigott concur.
Chief Judge Lippman took no part.

No. 67

The People &c.,
Respondent,
v.
Joseph Goldstein,
Appellant.

Order affirmed.

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

No. 54
David A. Kipper, M.D.,
Appellant,
et al.,
Plaintiff,
v.
NYP Holdings Co., Inc., &c.,
Respondent.

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

No. 59
The People &c.,
Respondent,
v.
Jonathan Mattocks,
Appellant.

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

No. 63
Pioneer Tower Owners Association,
Respondent,
v.
State Farm Fire & Casualty
Company et al.,
Appellants.

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

MOTIONS

Mo. No. 2009-419
The People &c.,
Appellant,
v.
Miguel Alemany,
Respondent.

Motion for poor person relief granted.
Chief Judge Lippman took no part.

Mo. No. 2009-406
The People &c.,
Respondent,
v.
Gregory Allen,
Appellant.

Motion for assignment of counsel
granted and Steven Banks, Esq., The
Legal Aid Society, 199 Water Street,
New York, NY 10038 assigned as counsel
to the appellant on the appeal herein.

Mo. No. 2009-455
In the Matter of Allstate
Insurance Company,
Respondent,
v.
Nydia Rivera, et al.,
Appellants.

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

Mo. No. 2009-320
Herbert Altman, et al.,
Appellants,
v.
New York Board of Trade, Inc.,
Respondent,
The Board of Governors of the New
York Board of Trade,
Defendant.

Motion for reargument of motion for
leave to appeal denied.
Chief Judge Lippman took no part.

Mo. No. 2009-249
Denise Bagot,
Respondent,
v.
Kulbir Kaur Singh 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.

Mo. No. 2009-277
In the Matter of Pedro A.
Batista,
Appellant,
v.
New York State Comptroller
et al.,
Respondents.

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

Mo. No. 2009-296
In the Matter of Isaias Bermudez,
Appellant,
v.
Brian Fischer, &c.,
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.

Mo. No. 2009-234
In the Matter of Shelly L. Bjork,
Appellant,
v.
Erik J. Bjork,
Respondent.

Motion for leave to appeal denied.

Mo. No. 2009-280
The People &c.,
Respondent,
v.
Joe Collins,
Appellant.

Motion for leave to appeal denied.

Mo. No. 2009-276
In the Matter of Joseph Confreda,
Appellant,
v.
New York State Comptroller
et al.,
Respondents.

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

Mo. No. 2009-152
In the Matter of Cody D.,
Appellant.

Motion for leave to appeal denied.

Mo. No. 2009-284
Natella Davidov, &c., et al.,
Appellants,
v.
Anna M. Fieldman, et al.,
Respondents.

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

Mo. No. 2009-274
In the Matter of Simeon F., &c.

St. Lawrence County Department of
Social Services,
Respondent;
Ahshella G.,
Appellant.

Motion for leave to appeal denied.

Mo. No. 2009-464
The People &c.,
Respondent,
v.
Michael Figueroa,
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.

Mo. No. 2009-254
In the Matter of Daniel W. Grace,
Respondent,
v.
Eleanor B. Grace,
Appellant.
(And Another Proceeding.)

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine an action or proceeding within the meaning of the Constitution.

Mo. No. 2009-252
In the Matter of Carl A. Gutzmer,
Appellant,
v.
Myriam L. Santini,
Respondent.

Motion for leave to appeal denied.

Mo. No. 2009-268
In the Matter of Iroquois Nursing Home, Inc.,
Appellant,
v.
New York State Division of Human Rights,
Respondent,
et al.,
Respondent.

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

Mo. No. 2009-269
Edwin Johnny Locke,
Respondent,
v.
Sikamdar Ali Buksh 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.

Mo. No. 2009-418
The People &c.,
Respondent,
v.
Maico Lopez-Jimenez,
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.

Mo. No. 2009-393
The People &c.,
Respondent,
v.
Jermar McDaniel,
Appellant.

Motion for assignment of counsel
granted and Steven Banks, Esq., The
Legal Aid Society, 199 Water Street,
New York, NY 10038 assigned as counsel
to the appellant on the appeal herein.

Mo. No. 2009-278
In the Matter of Gerard O'Brien,
Appellant,
v.
New York State Comptroller
et al.,
Respondents.

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

Mo. No. 2009-417
The People &c.,
Respondent,
v.
Anthony Ortiz,
Appellant.

Motion for assignment of counsel
granted and Steven Banks, Esq., The
Legal Aid Society, 199 Water Street,
New York, NY 10038 assigned as counsel
to the appellant on the appeal herein.
Chief Judge Lippman took no part.

Mo. No. 2009-222
Russell D. Palmer,
Appellant,
v.
The State of New York,
Respondent.

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

Mo. No. 2009-237
The People &c.,
Respondent,
v.
Joseph Perry, also known as
William Johnson,
Appellant.

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

Mo. No. 2009-420
The People &c.,
Respondent,
v.
Marcellus Pierce,
Appellant.

Motion for assignment of counsel
granted and David C. Schopp, Esq., The
Legal Aid Bureau of Buffalo, Inc. 237
Main Street, Suite 1602, Buffalo, NY
14203 assigned as counsel to the
appellant on the appeal herein.

Mo. No. 2009-298
The People &c.,
Respondent,
v.
Raymond Reid,
Appellant.

Motion for leave to appeal denied.

Mo. No. 2009-239
In the Matter of Rite Aid of New
York NO. 4928,
Appellant,
v.
Assessor of the Town of Colonie,
et al.,
Respondents.
(And Two Other Related
Proceedings.)

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

Mo. No. 2009-323
The People &c. ex rel. Walter J.
Roache,
Appellant,
v.
George B. Alexander, &c., et
al.,
Respondents.

Motion for reargument denied.
Chief Judge Lippman took no part.

Mo. No. 2009-270
In the Matter of Abdullah Y.
Salahuddin,
Appellant,
v.
Donald Selsky, as Director of
Special Housing/Inmate
Disciplinary Programs,
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.

Mo. No. 2009-378
The People &c.,
Appellant,
v.
Everton D. Simms,
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.

Mo. No. 2009-246
Pamela Sisson and Barry Sisson,
Appellants,
v.
James W. Alexander, M.D.,
Respondent.

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

Mo. No. 2009-250
Richard E. Snyder,
Appellant,
v.
Edgar M. Bronfman, Jr.,
Respondent.

Motion for leave to appeal granted.

Mo. No. 2009-279
In the Matter of Injah Tafari,
Appellant,
v.
Donald Selsky, as Director of
Special Housing and Inmate
Disciplinary Programs,
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.

Mo. No. 2009-300
In the Matter of Diana M.T.
et al.

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

Allegany County Department of
Social Services,
Respondent;
Robert A.T.,
Appellant.

Mo. No. 2009-131
In the Matter of Elizabeth Amanda
T., &c., et al.

Motion for reargument of motion for
leave to appeal denied.
Chief Judge Lippman took no part.

Helene Lisa H., &c.,
Appellant;
Graham-Windham Services to
Families and Children,
Respondent.

Mo. No. 2009-308
In the Matter of Town of
Wallkill,
Appellant,
v.
Town of Wallkill Police
Benevolent Association,
Respondent.

Motion for leave to appeal denied.

Mo. No. 2009-450
The People &c.,
Respondent,
v.
Darrell Williams,
Appellant.

Motion for assignment of counsel granted and Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, NY 10006 assigned as counsel to the appellant on the appeal herein.

Mo. No. 2009-255
The People &c. ex rel. DeAndre Williams,
Appellant,
v.
State of New York,
Respondent.

Motion for leave to appeal denied.

Mo. No. 2009-422
The People &c.,
Respondent,
v.
Desirie Wilson,
Appellant.

Motion for assignment of counsel denied without prejudice to renewal upon submissions showing current indigency (see CPLR 1101). Chief Judge Lippman took no part.

Mo. No. 2009-145
The People &c.,
Respondent,
v.
Richard Worley,
Appellant.

Motion for leave to appeal denied.

Mo. No. 2009-286
In the Matter of Michael Yovino,
Appellant,
v.
The New York City Civil Service Commission,
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.