

February 19, 2009

CASES

No. 15

In the Matter of Jason B.
(Anonymous),

Respondent,

v.

Antonia Coello Novello, &c., et
al.,

Appellants.

Judgment reversed, without costs, and
petition dismissed.
Opinion by Judge Ciparick.
Judges Graffeo, Read, Smith, Pigott and
Jones concur.
Chief Judge Lippman took no part.

No. 13

In the Matter of County of Erie
and Erie County Sheriff,
Appellants,

v.

State of New York Public
Employment Relations Board &c.,
et al.,

Respondents.

Judgment reversed, with costs, petition
granted, the August 9, 2006
determination of the State of New York
Public Employment Relations Board
annulled and the counterclaims for
enforcement of that determination
dismissed.
Opinion by Judge Pigott.
Judges Ciparick, Graffeo, Read, Smith
and Jones concur.
Chief Judge Lippman took no part.

No. 74 SSM 43

The People &c.,

Respondent,

v.

Dwight Furet, Also Known as Ira
Morsby,

Appellant.

On review of submissions pursuant to
section 500.11 of the Rules, order
affirmed. The mandatory surcharge,
crime victim assistance fee and DNA
databank fee need not be pronounced by
the court at sentencing (see People v
Guerrero [decided today, ___ NY3d
___]). The lower courts'
determinations regarding reasonable
suspicion and probable cause, which are
mixed questions of law and fact, have
support in the record and are thus
beyond our further review.
Judges Ciparick, Graffeo, Read, Smith,
Pigott and Jones concur.
Chief Judge Lippman took no part.

No. 12
The People &c.,
Respondent,
v.
Felix Soriano Guerrero,
Appellant.

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

No. 73 SSM 42
The People &c.,
Respondent,
v.
Christopher Harris,
Appellant.

On review of submissions pursuant to
section 500.11 of the Rules, order
affirmed (see People v Guerrero
[decided today, ___ NY3d ___]).
Judges Ciparick, Graffeo, Read, Smith,
Pigott and Jones concur.
Chief Judge Lippman took no part.

No. 75 SSM 4
The People &c.,
Respondent,
v.
Bajro Hoti,
Appellant.

On review of submissions pursuant to
section 500.11 of the Rules, order
affirmed. The mandatory surcharge,
crime victim assistance fee and DNA
databank fee are not components of a
defendant's sentence (see People v
Guerrero [decided today, ___ NY3d
___]). Accordingly, the court's
failure to pronounce the surcharge and
fees prior to the entry of defendant's
plea did not deprive the defendant of
the opportunity to knowingly,
voluntarily and intelligently choose
among alternative courses of action
(cf. People v Catu, 4 NY3d 242, 245
[2005]).
Judges Ciparick, Graffeo, Read, Smith,
Pigott and Jones concur.
Chief Judge Lippman took no part.

No. 24
The People &c.,
Appellant,
v.
Ronald Moye,
Respondent.

Order affirmed, in a memorandum.
Judges Ciparick, Graffeo, Read, Smith,
Pigott and Jones concur.
Chief Judge Lippman took no part.

No. 72 SSM 41
The People &c.,
Respondent,
v.
Lorraine Washington,
Appellant.

On review of submissions pursuant to
section 500.11 of the Rules, order
affirmed (see People v Guerrero
[decided today, ___ NY3d ___]).
Judges Ciparick, Graffeo, Read, Smith,
Pigott and Jones concur.
Chief Judge Lippman took no part.

MOTIONS

Mo. No. 2009-46
Edward W. Balunas et al.,
Appellants,
v.
Town of Owego,
Respondent.

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

Mo. No. 2009-58
In the Matter of Jasmine Cherie
B. (Anonymous).

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

Nassau County Department of
Social Services,
Respondent;
Pamela B. (Anonymous),
Appellant.

Mo. No. 2009-18
In the Matter of CBS Corporation,
&c.,
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.

Mo. No. 2009-26
In the Matter of Ruey Dei,
Appellant,
v.
Nyawer Diew,
Respondent.

Motion for leave to appeal denied.

Mo. No. 2009-24
Michael Devore, et al.,
Appellants,
v.
Pfizer Inc.,
Respondent.

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

Mo. No. 2009-59
The People &c.,
Respondent,
v.
Dieydy Diallo,
Appellant.

Motion for leave to appeal denied.
Motion for poor person relief
dismissed as academic.
Chief Judge Lippman took no part.

Mo. No. 2008-1419
George Georgotas,
Appellant,
v.
Laro Maintenance Corporation, et
al.,
Respondents.
(And a Third-Party Action.)

Motion for leave to appeal denied.

Mo. No. 2009-197
Morris I. Gletzer, &c.,
Plaintiff,
v.
Amos Harris,
Defendant.

Greenpoint Mortgage Funding,
Inc., et al.,
Respondents,
v.
Morris I. Gletzer, &c.,
Appellant,
Amos Harris, et al.,
Respondents.

Motion by New York State Land Title
Association for leave to file a brief
amicus curiae on the appeal herein
granted and the proposed brief is
accepted as filed. Three copies of
the brief must be served and an
original and 24 copies filed within
seven days.
Chief Judge Lippman took no part.

Mo. No. 2009-38
In the Matter of Shawn Green,
Appellant,
v.
Donald Selsky, &c., et al.,
Respondents.

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

Mo. No. 2009-39
In the Matter of Shawn Green,
Appellant,
v.
Keith Dubray, &c.,
Respondent.

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

Mo. No. 2008-1290
The People &c.,
Respondent,
v.
William L. Hilts, Also Known
as T and True,
Appellant.

Motion to vacate this Court's July 14,
2008 dismissal order granted.
Motion for assignment of counsel
granted and David Lazer, Esq., c/o
Lazer, Aptheker, Rosella & Yedid,
P.C., Melville Law Center, 225 Old
Country Road, Melville, NY 11747-2712
assigned as counsel to the appellant
on the appeal herein.

Mo. No. 2009-27
The People &c. ex rel. Jonathan
Hurley,
Appellant,
v.
L. Jubert, &c.,
Respondent.

Motion for leave to appeal denied.

Mo. No. 2009-200
In the Matter of George Infante,
as Administrator of the Estate of
Rosemary A. Infante, Deceased,
Respondent,

v.

Caroline R. Dignan, M.D., as
Medical Examiner of Monroe County
and Paul D. Gosnick, M.D., in his
official capacity as Deputy
Medical Examiner,
Appellants.

Mo. No. 2009-32
The People &c.,
Respondent,

v.

Evaristo Jardin,
Appellant.

Mo. No. 2009-210
Boris Khrapunskiy, et al.,
Respondents,

v.

Robert Doar, as Commissioner of
the New York State Office of
Temporary and Disability
Assistance,
Appellant.

Mo. No. 2009-7
In the Matter of Joshua Liner,
Appellant,

v.

Brian Fischer, &c.,
Respondent.

Motion by Most Rev. Howard J. Hubbard,
D.D. for leave to appear amicus curiae
on the appeal herein granted only to
the extent that the proposed brief is
accepted as filed.

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

Motion by City of New York for leave
to file a brief amicus curiae on the
appeal herein granted and the proposed
brief is accepted as filed.

Motion for leave to appeal denied.

Mo. No. 2009-76
Alfred Lucian et al.,
Appellants,
v.
Kenneth S. Schwartz, &c., et al.,
Respondents,
et al.,
Defendant.

Motion for leave to appeal denied.

Mo. No. 2009-226
Igor Misicki,
Appellant,
v.
Salvatore Caradonna,
Defendant,
430-50 Shore Road Corporation,
Respondent.
(And a Third-Party Action.)

Motion by New York State Trial
Lawyers' Association 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 24 copies
filed within seven days.

Mo. No. 2009-25
George Nickel,
Appellant,
v.
Goldsmith & Tortora, &c.,
Respondent.

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

Mo. No. 2009-44
The People &c. ex rel.
Carpeah R. Nyenekor,
Appellant,
v.
Peggi Healy, &c.,
Respondent.

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

The People &c. ex rel.
Carpeah R. Nyenekor,
Appellant,
v.
Carl E. Dubois, &c.,
Respondent.

Mo. No. 2009-172
Pioneer Tower Owners Association,
Respondent,
v.
State Farm Fire & Casualty
Company et al.,
Appellants.

Motion by New York Insurance
Association, Inc. 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. Two copies of the brief must
be served and 24 copies filed within
seven days.

Mo. No. 2009-11
In the Matter of Gabrielle S.R.
and Katrina C.R.

Monroe County Department of Human
Services,
Respondent;
Alfredo R.,
Appellant;
et al.,
Respondent.

Motion for leave to appeal denied.

Mo. No. 2008-1405
Sigurd A. Sorenson,
Appellant,
v.
Bridge Capital Corp. 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.
Chief Judge Lippman took no part.

Mo. No. 2009-22
In the Matter of Patrick
Sutherland,
Appellant,
v.
Donald Selsky, &c., et al.,
Respondents.

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

Mo. No. 2009-6
In the Matter of Joseph C.
Valenti,
Respondent,
v.
Tammy L. Valenti,
Appellant.

Motion for leave to appeal denied.

Mo. No. 2009-5
In the Matter of Paolo W. et al.,
&c.
Schenectady County Department of
Social Services,
Respondent;
Paul W.,
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.

Mo. No. 2009-186
The People &c.,
Respondent,
v.
Scott C. Weaver,
Appellant.

Motion by National Association of
Criminal Defense Lawyers et al. for
leave to file a brief amici curiae on
the appeal herein granted and the
proposed brief is accepted as filed.

Mo. No. 2009-203
The People &c.,
Respondent,
v.
Scott C. Weaver,
Appellant.

Motion by New York Civil Liberties
Union 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. 2008-1314
In the Matter of Susan H. Wiley,
Respondent,
v.
Roger Dawson,
Appellant.

Motion for leave to appeal dismissed
upon the ground that the orders sought
to be appealed from do not finally
determine the proceeding within the
meaning of the Constitution.
Motion for poor person relief &c.
dismissed as academic.
Cross motion for the imposition of
sanctions denied.