

September 17, 2009

CASE

1 No. 190 SSM 23
Joseph I. Rosenzweig,
 Appellant,
 v.
Radiah K. Givens,
 Respondent.

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

MOTIONS

4 Mo. No. 2009-667
In the Matter of Barker Central
School District, et al.,
 Respondents,
 v.
Niagara County Industrial
Development Agency, et al.,
 Appellants,
et al.,
 Respondents.

In the Matter of Town of Somerset
et al.,
 Respondents,
 v.
Niagara County Industrial
Development Agency, et al.,
 Appellants.
(And Another Proceeding).

4 Mo. No. 2009-892
In the Matter of Barker Central
School District, et al.,
 Respondents,
 v.
Niagara County Industrial
Development Agency, et al.,
 Appellants,
et al.,
 Respondents.

In the Matter of Town of Somerset
et al.,
 Respondents,
 v.
Niagara County Industrial
Development Agency, et al.,
 Appellants.
(And Another Proceeding).

Motions for leave to appeal granted.
Judge Read took no part.

Motion by New York State Economic
Development Council 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 granted,
three copies of the brief to be served
and an original and 24 copies filed
within 30 days.
Judge Read took no part.

4 Mo. No. 2009-919
In the Matter of Barker Central
School District, et al.,
Respondents,
v.
Niagara County Industrial
Development Agency, et al.,
Appellants,
et al.,
Respondents.

In the Matter of Town of Somerset
et al.,
Respondents,
v.
Niagara County Industrial
Development Agency, et al.,
Appellants.
(And Another Proceeding).

4 Mo. No. 2009-746
The People &c. ex rel. Gregory
Boomer,
Appellant,
v.
James Conway, &c.,
Respondent.

2 Mo. No. 2009-763
In the Matter of Citylights at
Queens Landing, Inc.,
Appellant,
v.
New York City Department of
Environmental Protection, et al.,
Respondents.

Motion by Independent Power Producers
of New York, Inc. 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 granted, three
copies of the brief to be served and
an original and 24 copies filed within
30 days.
Judge Read took no part.

Motion for leave to appeal dismissed
upon the ground that it does not lie
from the order of an individual
Justice of the Appellate Division (see
NY Const, art VI, § 3; CPLR 5602).

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

1 Mo. No. 2009-1050

The People &c.,
Respondent,
v.
Danny Colon,
Appellant.

The People &c.,
Respondent,
v.
Anthony Ortiz,
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. Two copies of the brief must be served and 24 copies filed within seven days. Chief Judge Lippman took no part.

1 Mo. No. 2009-1051

The People &c.,
Respondent,
v.
Danny Colon,
Appellant.

The People &c.,
Respondent,
v.
Anthony Ortiz,
Appellant.

Motion by Center on the Administration of Criminal Law 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. Chief Judge Lippman took no part.

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The People &c.,
Respondent,
v.
Christopher A. Doku,
Appellant.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no civil appeal lies from an order of City Court entered in a criminal action or proceeding (see NY Const, art VI, § 3[b]; CPLR 5601; CPL 450.90).

1 Mo. No. 2009-791

Leonard Eidlitz,
Respondent,
v.
New York University, et al.,
Appellants.

Motion for leave to appeal granted.

1 Mo. No. 2009-795
Leonard Eidlitz,
 Respondent,
 v.
New York University, et al.,
 Appellants.

Motion for a stay granted.

1 Mo. No. 2009-864
Marvin Gibbs,
 Respondent,
 v.
St. Barnabas Hospital,
 Respondent,
Fausto Vincas, M.D.,
 Appellant,
Scott Russo, M.D., et al.,
 Defendants.

Motion to dismiss the appeal herein denied.

2 Mo. No. 2009-1025
Margaret Godfrey, et al.,
 Appellants,
 v.
Andrew J. Spano, &c., et al.,
 Respondents,
New York State Comptroller,
 Intervenor-Respondent.

Motion by New York State Association of Counties 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.

2 Mo. No. 2009-1035
Margaret Godfrey, et al.,
 Appellants,
 v.
Andrew J. Spano, &c., et al.,
 Respondents,
New York State Comptroller,
 Intervenor-Respondent.

Motion by New Yorkers for Constitutional Freedoms 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.

2 Mo. No. 2009-1041
In the Matter of Daniel
Goldstein, et al.,
 Appellants,
 v.
New York State Urban Development
Corporation, d/b/a Empire State
Development Corporation,
 Respondent.

Motion by Institute for Justice 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.

2 Mo. No. 2009-1053
In the Matter of Daniel
Goldstein, et al.,
 Appellants,
 v.
New York State Urban Development
Corporation, d/b/a Empire State
Development Corporation,
 Respondent.

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. Two
copies of the brief must be served and
24 copies filed within seven days.

2 Mo. No. 2009-1059
In the Matter of Daniel
Goldstein, et al.,
 Appellants,
 v.
New York State Urban Development
Corporation, d/b/a Empire State
Development Corporation,
 Respondent.

Motion by Fifth Avenue Committee 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 24 copies filed within
seven days.

3 Mo. No. 2009-755
Eugenia Brennan Heslin, &c.,
 Appellant,
 v.
County of Greene, et al.,
 Respondents,
et al.,
 Defendants.

Motion, insofar as it seeks to strike
the brief and appendix of the County
of Greene Department of Social
Services and County of Greene Child
Protective Services, denied; motion,
insofar as it seeks to expand the
record to include the responsive
documentation submitted by appellant,
granted; motion, insofar as it seeks
an enlargement of time to submit a
reply brief, denied.

3 Mo. No. 2009-802
Eugenia Brennan Heslin, &c.,
 Appellant,
 v.
County of Greene, et al.,
 Respondents,
et al.,
 Defendants.

Motion to vacate this Court's July 6, 2009 preclusion order granted, and the County of Greene's brief is accepted as filed, except to the extent that the January 12, 2005 letter attached as part of the appendix to the County's brief is deemed stricken.

3 Mo. No. 2009-736
In the Matter of Destiny HH.
et al., &c.

Motion for leave to appeal denied.

Clinton County Department of
Social Services,
 Respondent;
Amber HH.,
 Appellant;
et al.,
 Respondent.
(And Another Related Proceeding.)

2 Mo. No. 2009-728
Kelli Horton,
 Appellant,
 v.
Concerns of Police Survivors,
Inc.,
 Respondent.

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

2 Mo. No. 2009-757
The People &c. ex rel. David Kae,
 Appellant,
 v.
James T. Conway, &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. 2009-1026
Kenneth J. Lewis, et al.,
 Appellants,
 v.
New York State Department of
Civil Service, et al.,
 Respondents.

Margaret Godfrey, et al.,
 Appellants,
 v.
Andrew J. Spano, &c., et al.,
 Respondents,
New York State Comptroller,
 Intervenor-Respondent.

3 Mo. No. 2009-1027
Kenneth J. Lewis, et al.,
 Appellants,
 v.
New York State Department of
Civil Service, et al.,
 Respondents.

Margaret Godfrey, et al.,
 Appellants,
 v.
Andrew J. Spano, &c., et al.,
 Respondents,
New York State Comptroller,
 Intervenor-Respondent.

Motion by New York State United
Teachers for leave to file a brief
amicus curiae on the appeals 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.

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

3 Mo. No. 2009-1046
Kenneth J. Lewis, et al.,
 Appellants,
 v.
New York State Department of
Civil Service, et al.,
 Respondents.

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.

Margaret Godfrey, et al.,
 Appellants,
 v.
Andrew J. Spano, &c., et al.,
 Respondents,
New York State Comptroller,
 Intervenor-Respondent.

Motion by Tobias Barrington Wolff et
al. for leave to appear amici curiae
on the appeals herein granted only to
the extent that the proposed brief is
accepted as filed.

3 Mo. No. 2009-1047
Kenneth J. Lewis, et al.,
 Appellants,
 v.
New York State Department of
Civil Service, et al.,
 Respondents.

Margaret Godfrey, et al.,
 Appellants,
 v.
Andrew J. Spano, &c., et al.,
 Respondents,
New York State Comptroller,
 Intervenor-Respondent.

Motion by New York State Bar
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.

3 Mo. No. 2009-1048
Kenneth J. Lewis, et al.,
 Appellants,
 v.
New York State Department of
Civil Service, et al.,
 Respondents.

3 Mo. No. 2009-1049
Kenneth J. Lewis, et al.,
 Appellants,
 v.
New York State Department of
Civil Service, et al.,
 Respondents.

Motion by New York Civil Liberties
Union et al. for leave to file a brief
amici curiae on the appeals herein
granted and the proposed brief is
accepted as filed.

Margaret Godfrey, et al.,
 Appellants,
 v.
Andrew J. Spano, &c., et al.,
 Respondents,
New York State Comptroller,
 Intervenor-Respondent.

3 Mo. No. 2009-701
William C. Martin et al., &c.,
 Appellants,
 v.
State of New York et al.,
 Respondents.

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

3 Mo. No. 2009-761
In the Matter of Raymond C.
Miller Sr.,
 Appellant,
 v.
Patricia A. Miller,
 Respondent.

Motion for leave to appeal dismissed
upon the ground that the appellant is
not a party aggrieved.

3 Mo. No. 2009-703
In the Matter of Matthew Pitt,
 Appellant,
 v.
Keith Dubray, &c.,
 Respondent.

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

2 Mo. No. 2009-740
Dino Prisco,
Appellant,
v.
State of New York,
Respondent.

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

1 Mo. No. 2009-810
In the Matter of Jeffrey R., &c.
Carmen M.,
Appellant,
Catholic Guardian Society and
Home Bureau,
Respondent.

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

4 Mo. No. 2009-990
The People &c.,
Respondent,
v.
Nathan J. Reome,
Appellant.

Motion for assignment of counsel granted and Frank H. Hiscock Legal Aid Society, 351 S. Warren Street, Syracuse, NY 13202 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2009-753
In the Matter of Osbourne S.,
Respondent,
v.
Regina S.,
Appellant.

Motion for leave to appeal dismissed upon the ground that it does not lie (see NY Const, art VI, § 3[b]; CPLR 5602).

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In the Matter of Robert
Santagata,
Appellant,
v.
Hon. Lori Currier Woods,
Respondent.

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, Second Department, upon the ground that a direct appeal does not lie when questions other than the constitutional validity of a statutory provision are involved (NY Const, art VI, §§ 3[b][2], 5[b]; CPLR 5601[b][2]).

4 Mo. No. 2009-759
Patrick M. Sciortino, &c.,
 Appellant,
 v.
Mark A. Leo,
 Defendant,
Oneida County Department of
Emergency Services et al.,
 Respondents.

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

2 Mo. No. 2009-1018
The People &c.,
 Respondent,
 v.
Charles Smith,
 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.

1 Mo. No. 2009-1042
Richard E. Snyder,
 Appellant,
 v.
Edgar M. Bronfman, Jr.,
 Respondent.

Motion by Business Council of New York
State, Inc. 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.

3 Mo. No. 2009-705
In the Matter of St. Lawrence
County Support Collection Unit,
on Behalf of Lesli E. LaClair,
 Respondent,
 v.
Jason M. Gilmour,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2009-1040
In the Matter of Ivey Walton, et
al.,
 Appellants,
 v.
New York State Department of
Correctional Services,
 Respondent,
et al.,
 Respondent.

Motion by The Sentencing Project 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 24 copies filed within
seven days.

3 Mo. No. 2009-1052
In the Matter of Ivey Walton, et
al.,
 Appellants,
 v.
New York State Department of
Correctional Services,
 Respondent,
et al.,
 Respondent.

Motion by The Legal Aid Society for
leave to appear amicus 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.

3 Mo. No. 2009-1065
In the Matter of Ivey Walton, et
al.,
 Appellants,
 v.
New York State Department of
Correctional Services,
 Respondent,
et al.,
 Respondent.

Motion by The Innocence Project 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 24 copies filed within seven days.

1 Mo. No. 2009-1029
The People &c.,
 Respondent,
 v.
Rahjeem Williams,
 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.

2 SSD 49
The People &c.,
 Respondent,
 v.
Anthony Wise,
 Appellant.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no civil appeal lies from the order of the Appellate Division entered in this criminal proceeding (see NY Const, art VI, § 3[b]; CPLR 5601; CPL 450.90).

4 Mo. No. 2009-756
The People &c.,
 Respondent,
 v.
James C. Woodard,
 Appellant.

Motion for leave to appeal denied.