

APRIL 24, 2008

CASES

1	No.	51	Order affirmed, in a memorandum. Chief Judge Kaye and Judges Ciparick, Grafteo, Read, Smith, Pigott and Jones concur.
The People &c.,		Respondent,	
	v.		
Curtis Mitchell,		Appellant.	
2	No.	50	Order affirmed, with costs. Opinion by Judge Jones. Chief Judge Kaye and Judges Ciparick, Grafteo, Read, Smith and Pigott concur.
In the Matter of Pall Corp.,		Petitioner,	
	v.		
Board of Assessors of County of Nassau et al.,		Appellants.	
Port Washington Union Free School District,		Intervenor-Respondent.	
USCOA2d	No.	68	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 answered in the negative. Opinion by Judge Read. Chief Judge Kaye and Judges Ciparick, Grafteo, Smith, Pigott and Jones concur.
Oleg Rivkin,		Appellant,	
	v.		
Century 21 Teran Realty LLC, Andrew Peck, Chloe Dresser and Joshua Luborsky,		Respondents,	
et al.,		Defendants.	

Goya Foods, Inc.,
Appellants,
Respondent.

MOTIONS

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2-10 Mo. No. 236
In the Matter of Eligahes Kareem
A. (Anonymous), &c.

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

MercyFirst, et al.,
Respondents;
Sandra Mae A. (Anonymous), &c.,
Appellant.

1-10 Mo. No. 43
In the Matter of Jaquan A.,
&c.,
Appellant.

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

2-13 Mo. No. 192
Douglas Brodmerkel,
Appellant,
v.
James McCullagh Co. Inc., 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. 160
In the Matter of Brooklyn Navy
Yard Cogeneration Partners, L.P.,
Appellant,
v.
Tax Appeals Tribunal of State of
New York et al.,
Respondents.

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

Mo. No. 367
Stephen J. Brooks, et al.,
Plaintiffs,
v.
Judlau Contracting, Inc.,

Motion for a stay denied.

Appellant.
Thunderbird Constructors, Inc.,
Third-Party Respondent.

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1-14 Mo. No. 226
In the Matter of Jeffrey C., &c.,
Respondent;
Presentment Agency,
Appellant.

Motion for leave to appeal denied.

Mo. No. 464
The People &c.,
Respondent,
v.
Eliezer Cintron,
Appellant.

Motion for poor person relief granted.

4-10 Mo. No. 155
The People &c.,
Respondent,
v.
Dana Cleaves,
Appellant.

Motion for leave to appeal denied.

1-10 Mo. No. 238
James J. D'Esposito,
Appellant,
v.
Gusrae, Kaplan & Bruno PLLC, et
al.,
Respondents,
Martin H. Kaplan,

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.

Defendant.

3-10 Mo. No. 201
In the Matter of Larry Davis,
Appellant,
v.
Glenn S. Goord, &c.,
Respondent.

Motion for leave to appeal dismissed upon
the ground that the proceeding and the
motion have abated because of the death of
appellant.

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1-10 Mo. No. 247
The People &c.,
Respondent,
v.
Jose Diaz,
Appellant.

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

Mo. No. 460
The People &c.,
Respondent,
v.
Isaac Diggins,
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.

3-10 Mo. No. 51
In the Matter of Eckerd
Corporation, &c.,
Appellant,
v.
Mark Gilchrist, &c., et al.,
Respondents.
(And Two Other Related
Proceedings.)

Motion for leave to appeal denied.

Mo. No. 370
The People &c., Respondent,
v.
Sheldon Ennis, 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.

1-10 Mo. No. 246
The People &c. ex rel. Lonnie Epps, Appellant,
v.
Warden, Riker's Island Correctional Facility et al., Respondents.

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

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4-10 Mo. No. 164
Paula Fasso et al., Respondents,
Independent Health Association, Inc., Intervenor-Appellant,
v.
Ralph J. Doerr, M.D., Respondent.

Motion for leave to appeal granted.

1 Mo. No. 260
In the Matter of Woodrow Flemming, Appellant,
v.
Hon. Dennis Boyle, &c., et al., Respondents.

Motion for reargument denied.

3-10 Mo. No. 264
The People &c. ex rel. Trevis

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

L. Funches,
Appellant,
v.
James J. Walsh, &c., et al.,
Respondents.

as academic.

Mo. No. 425
The People &c.,
Respondent,
v.
Robert Wade Gibbs,
Appellant.

Motion for an extension of the time within which to apply for permission to appeal pursuant to CPL 460.20 dismissed (see CPL 460.30[6]).

1-10 Mo. No. 193
William Guerrero et al.,
Appellants,
v.
West 23rd Street Realty, LLC, et al.,
Respondents.

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

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4-10 Mo. No. 153
The People &c.,
Respondent,
v.
Leroy Harris,
Appellant.

Motion for leave to appeal denied.

Mo. No. 301
The People &c.,
Respondent,
v.
Tebrue James,
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. 349

Motion for assignment of counsel granted

The People &c.,
Respondent,
v.
Lionel Jones,
Appellant.

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. 341
Katz Park Avenue Corp.,
Respondent,
v.
Bianca Jagger,
Appellant,
"John Doe," et al.,
Defendants.

Motion by respondent to strike pages 245 to 611 of the record on appeal and references thereto in appellant's brief granted.
Motion by respondent for the imposition of sanctions denied.
Motion by appellant to expand the record on appeal denied.
Chief Judge Kaye took no part.

4-10 Mo. No. 290
In the Matter of Kessel Brent Corp.,
Appellant,
v.
City of Utica, et al.,
Respondents.

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

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3-10 Mo. No. 182
City of Kingston,
Respondent,
v.
Harco National Insurance Company,
Appellant,
Jacki Blanc 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.

1-10 Mo. No. 277
The People &c.,

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

Respondent,
v.
Anthony Kitt,
Appellant.

as academic.

Mo. No. 368
The People &c.,
Respondent,
v.
Judy Knox,
Appellant.

Motion for poor person relief granted.

4-10 Mo. No. 76
In the Matter of Bruce W.L.,
Appellant,
v.
Carol A.P.,
Respondent.

Motion for leave to appeal denied.

4-10 Mo. No. 269
In the Matter of Davona L.

Onondaga County Department of
Social Services;
Respondent;
David L.,
Appellant.

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

Mo. No. 387
In the Matter of the Honorable
Dennis LaBombard, a Justice
of the Ellenburg Town Court,
Clinton County,
Petitioner,
For Review of a Determination of

Motion to vacate this Court's March 13,
2008 orders granted.

State Commission on Judicial
Conduct,
Respondent.

3- Mo. No. 258
In the Matter of Elvin Lebron,
Appellant,
v.
Brion D. Travis, &c.,
Respondent.

Motion for leave to appeal denied.

2-13 Mo. No. 163
Gilbert Montalvo et al.,
Appellants,
v.
City of New York,
Respondent.

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

Mo. No. 101
In the Matter of Town of Montauk,
Appellant,
v.
George E. Pataki, etc., et al.,
Respondents.

Motion to vacate this Court's December 18,
2007 dismissal order denied.

3-13 Mo. No. 188
In the Matter of State of New
York Office of Mental Health,
Respondent,
v.
New York State Correctional
Officers and Police Benevolent
Association, Inc., 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 proceeding within the meaning of the
Constitution.

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Mo. No. 375
Elaine Pachter,

Motion by National Employment Lawyers
Association/New York for leave to file a

Respondent,
v.
Bernard Hodes Group, Inc.,
Appellant.

brief amicus curiae on consideration of the certified questions herein dismissed as untimely (see Rules of Ct of Appeals [22 NYCRR] 500.23 [a][1]).

Mo. No. 465
The People &c.,
Respondent,
v.
George Quinones,
Appellant.

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 appellant on the appeal herein.

3 Mo. No. 219
The People &c. ex rel. Justo
Richards,
Appellant,
v.
Calvin West, &c.,
Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that the orders appealed from do not finally determine the proceedings within the meaning of the Constitution. Motion for leave to appeal dismissed upon the ground that the orders sought to be appealed from do not finally determine the proceedings within the meaning of the Constitution. Motion for poor person relief dismissed as academic.

In the Matter of Justo Richards,
Appellant,
v.
Calvin West, &c.,
Respondent.

Mo. No. 448
The People &c.,
Respondent,
v.
Hiram Rivera,
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.

1-10 Mo. No. 220
The People &c.,
Respondent,
v.
Daniel Rodriguez,
Appellant.

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

3-10 Mo. No. 185
The People &c., Respondent,
v.
Michael Roe, Appellant.

Motion for leave to appeal denied.

1-10 Mo. No. 248
The People &c., Respondent,
v.
Michael Sanford, Appellant.

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

Mo. No. 384
The People &c., Respondent,
v.
Andre 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.

4-10 Mo. No. 154
The People &c., Respondent,
v.
Daniel Smith, Appellant.

Motion for leave to appeal denied.

Mo. No. 424 SSD 19
Peter Marc Stern, Respondent,
v.
Andrew Lavoott Bluestone, Appellant.

Appeal dismissed without costs, by the
Court sua sponte, upon the ground that
the order appealed from does not finally
determine the action within the meaning
of the Constitution.

1-10 Mo. No. 159
Mildred Stewart, Appellant,
v.
Schulte Roth & Zabel LLP, Respondent.

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

3-10 Mo. No. 118
In the Matter of Injah Tafari,
Appellant,
v.
Donald Selsky, &c.,
Respondent.

Motion for leave to appeal dismissed as
untimely (see CPLR 5513[b]).
Motion for poor person relief dismissed as
academic.

1-10 Mo. No. 184
Jonathan E. Vick et al.,
Respondents,
v.
Richard Albert, et al.,
Appellants,
Evelyn Renee Albert, et al.,
Defendants.

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

2- Mo. No. 180
In the Matter of Glenn O.
Vickers, admitted as Glenn Osric
Vickers, a suspended attorney.

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.

3-10 Mo. No. 256
In the Matter of Joseph Vidal,
Appellant,
v.
Donald Selsky, &c.,
Respondent.

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

3 Mo. No. 240
In the Matter of John Vidurek,
&c.,
Appellant,
v.
Commissioner of Labor,
Respondent.

Motion for leave to appeal denied.