

OCTOBER 16, 2008

CASES

3                    No.    142  
In the Matter of City of Elmira  
et al.,  
   Respondents,  
   v.  
John Doe,  
   Appellant.

Order, insofar as appealed from, affirmed,  
without costs, in a memorandum.  
Chief Judge Kaye and Judges Ciparick,  
Graffeo, Read, Smith, Pigott and Jones  
concur.

USCOA2            No.    215  
City of New York,  
   Appellant,  
   v.  
Smokes-Spirits.Com, Inc., et al.,  
   Respondents,  
Joyce E. Houle, et al.,  
   Defendants.  
(And Other Actions.)

Certification of questions by the United  
States Court of Appeals for the Second  
Circuit, pursuant to section 500.27 of  
this Court's Rules of Practice, accepted  
and the issues presented are to be  
considered after briefing and argument.  
Chief Judge Kaye and Judges Ciparick,  
Graffeo, Read, Smith, Pigott and Jones  
concur.

1                    No.    140  
Lorraine Goldman,  
   Appellant,  
   v.  
White Plains Center for Nursing  
Care, LLC et al.,  
   Respondents.

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



MOTIONS

- 3 -

1-10 Mo. No. 878  
The People &c., Respondent,  
v.  
Michael Bailey, Appellant.

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

1-10 Mo. No. 874  
The People &c., Respondent,  
v.  
Dzemil Balic, Appellant.

Motion for leave to appeal granted.  
Motion for poor person relief granted.

Mo. No. 1090  
The People &c., Appellant,  
v.  
Amber Bauman and Charles Edward  
Lafler, Respondents.

Motion for assignment of counsel granted  
and Timothy P. Donaher, Esq., Monroe  
County Public Defender, 10 N. Fitzhugh  
Street, Rochester, NY 14614 assigned as  
counsel to respondent Amber Bauman on the  
appeal herein.

Mo. No. 1109  
The People &c., Respondent,  
v.  
Dionis Collado, 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.

3-10 Mo. No. 936  
In the Matter of Chester  
Davidson, Appellant,  
v.  
State of New York Department of  
Correctional Services,  
Respondent.

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

1-10 Mo. No. 857  
Jeremy Delgado, &c. et al.,  
Appellants,  
v.  
New York City Housing Authority,  
Respondent.

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

2-10 Mo. No. 903  
Jeanne De Laurentis,  
Appellant,  
v.  
Vito F. De Laurentis, Jr.,  
Respondent.

Motion for leave to appeal denied.

2-10 Mo. No. 976  
Jeanne De Laurentis,  
Appellant,  
v.  
Vito F. De Laurentis, Jr.,  
Respondent.

Motion for the imposition of sanctions  
denied.

2-13 Mo. No. 950  
Manuel Diaz,  
Appellant,  
v.  
White Plains Coat & Apron Co.,  
Inc.,  
Respondent.

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

1-10 Mo. No. 783  
James Maxfield Duhe, &c., et al.,  
Appellants,  
v.  
Horacio J. Midence,  
Defendant,  
The New York Times, et al.,  
Respondents.

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

4-10 Mo. No. 863  
The People &c., Respondent,  
v.  
Gerald E. Ellis, Appellant.

Motion for leave to appeal denied.

2-10 Mo. No. 854  
In the Matter of Cindy A.  
Ferrara, Respondent,  
v.  
Paul C. Ferrara, Appellant.

Motion for leave to appeal denied.

2 Mo. No. 914  
Constance Fish et al., Appellants,  
v.  
City of New York et al., Respondents.

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

Mo. No. 965  
In the Matter of Fiveco, Inc.,  
d/b/a Mer's, Inc., Appellant,  
v.  
Bruce Haber, Respondent.

Motion for reargument denied with one hundred dollars costs and necessary reproduction disbursements.

1-10 Mo. No. 873  
In the Matter of Raul Frank,  
Appellant,  
v.  
Ron Scott Stevens, &c. et al., Respondents.

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

3-10 Mo. No. 865  
Joyce Gagnon et al.,  
Appellants,  
v.  
City of Saratoga Springs,  
Respondent.

Motion for leave to appeal denied.

4-10 Mo. No. 939  
In the Matter of Debbie Gray,  
Respondent,  
v.  
Bruce Gray,  
Appellant.

Motion for leave to appeal denied.

2-10 Mo. No. 846  
Kathleen Hoey,  
Appellant,  
v.  
Bernard Rawlings, &c.,  
Respondent.

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

1-10 Mo. No. 973  
The People &c. ex rel. Victor  
Horrach,  
Appellant,  
v.  
Warden, Otis Bantum Correctional  
Center et al.,  
Respondents.

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

4-10 Mo. No. 922  
Christopher F. Jarvis,  
Appellant,  
v.  
Lafarge North America, Inc. et  
al.,  
Respondents.

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

1-13 Mo. No. 875  
Jericho Group, Ltd.,  
Appellant,  
v.  
Midtown Development, L.P.,  
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.

1-13 Mo. No. 902  
In the Matter of Eric Josey,  
Appellant,  
v.  
New York City Police Department,  
et al.,  
Respondents.

Motion for leave to appeal denied.

3- Mo. No. 941  
In the Matter of Iftikhar Ahmad  
Khan,  
Appellant,  
v.  
Omne Staffing, Inc., et al.,  
Respondents.  
Workers' Compensation Board,  
Respondent.

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

Mo. No. 1104  
The People &c.,  
Respondent,  
v.  
Dale F. Leeson,  
Appellant.

Motion for assignment of counsel granted and John E. Tyo, Esq., c/o Zimmerman & Tyo, 6 East Main Street, P.O. Box 7, Shortsville, NY 14548 assigned as counsel to the appellant on the appeal herein.

3-10 Mo. No. 934  
In the Matter of Detroy  
Livingston,  
Appellant,  
v.  
Brian Fischer, &c.,  
Respondent.

Motion for leave to appeal denied.

Mo. No. 1086  
The People &c.,  
Respondent,  
v.  
Jonathan Mattocks,  
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. 1097  
The People &c.,  
Respondent,  
v.  
Tyrone Mingo,  
Appellant.

Motion by James Ching 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.

3-10 Mo. No. 938  
In the Matter of Gregory Mingo,  
Appellant,  
v.  
Anthony Annucci, &c.,  
Respondent.

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

2-10 Mo. No. 827  
Natural Organics, Inc.,  
Appellant,  
v.  
James A. Kirkendall et al.,  
Respondents.

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

Mo. No. 1131  
The People &c.,  
Respondent,  
v.  
Kristerfer Passino,  
Appellant.

Motion for assignment of counsel granted and M. Elizabeth Coreno, Esq., c/o Jones Ferradino, 68 West Avenue, P.O. Box 4400, Saratoga Springs, NY 12866 assigned as counsel to the appellant on the appeal herein.

3-10 Mo. No. 898  
In the Matter of Yvonne Pearson,  
Appellant,  
v.  
Bestcare et al.,  
Respondents.  
Workers' Compensation Board,  
Respondent.

Motion for reargument of motion for leave  
to appeal denied.

Mo. No. 1115  
The People &c.,  
Respondent,  
v.  
Thomas Perez,  
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.

3-10 Mo. No. 962  
In the Matter of Harlow G. Perry,  
Appellant,  
v.  
Heather J. Perry,  
Respondent.

Motion for leave to appeal denied.

2-10 Mo. No. 895  
The People &c.,  
Respondent,  
v.  
Neil Pietarniello,  
Appellant.

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

1-10 Mo. No. 910  
In the Matter of Alfred R., &c.,  
Appellant.

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

1-10 Mo. No. 923  
In the Matter of Victoria  
Rodriguez,  
Appellant,  
v.  
Tino Hernandez, &c., et al.,  
Respondents.

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

2-10 Mo. No. 899  
Mark Rufeh,  
Respondent,  
v.  
Seth M. Schwartz 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.  
Chief Judge Kaye took no part.

1-10 Mo. No. 947  
The RGH Liquidating Trust, &c.,  
Appellant,  
v.  
Deloitte & Touche LLP 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.

2-10 Mo. No. 858  
Frieda Sargiss,  
Appellant,  
v.  
Marlene Magarelli, &c., et al.,  
Respondents,  
et al.,  
Defendants.

Motion for leave to appeal granted.

1-10 Mo. No. 894  
David Simons, &c.,  
Appellant,  
v.  
Lycee Francais de New York et  
al.,  
Respondents.

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

Mo. No. 1082  
The People &c.,  
Respondent,  
v.  
Robert Tocci,  
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.

2-13            Mo. No. 935  
Trataros Construction, Inc.,  
                  Appellant,  
                  v.  
New York City School Construction  
Authority,  
                  Respondent.

Motion for leave to appeal denied.

1-13            Mo. No. 956  
Vintage, LLC,  
                  Appellant,  
                  v.  
Laws Construction Corp., et al.,  
                  Respondents,  
Westway Industries, Inc., et al.,  
                  Defendants.

Motion for leave to appeal granted.

                  Mo. No. 1113  
The People &c.,  
                  Respondent,  
                  v.  
Billy Witherspoon,  
                  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.