

SEPTEMBER 16, 2008

CASES

No. 203 SSM 31
In the Matter of Gary DeFilippo,
Appellant,
v.
Hon. Stephen J. Rooney, &c.,
et al.,
Respondents.

On review of submissions pursuant to section 500.11 of the Rules, judgment affirmed, without costs, and certified question not answered on the ground that it is unnecessary, in a memorandum. Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

USCOA2 No. 204
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.

Certification of question 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. 202 SSM 23
William McCleery et al.,
 Appellants,
 v.
Consolidated Edison of New York,
Inc. et al.,
 Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, and defendants' motion for summary judgment denied. We agree with the dissenting justices at the Appellate Division that the injured plaintiff presented issues of fact as to how his foot was crushed and whether his injuries were a result of the Consolidated Edison driver's negligence, which preclude the grant of summary judgment to defendants.

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

1 No. 201 SSM 32
The People &c.,
 Appellant,
 v.
Menashe Shemesh,
 Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed. There is record support for the finding below that the District Attorney failed to accord the defendant reasonable time to exercise his right to appear as a witness before the Grand Jury.

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

1 No. 200 SSM 27
Matter of Leopold Siao-Pao,
 Appellant,
 v.
Robert Dennison, Acting Chairman
New York State Division of
Parole,
 Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, without costs, in a memorandum.

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

MOTIONS

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3-10 Mo. No. 948
Terry Allen, et al.,
Appellants,
v.
City of New York, et al.,
Respondents.

Motion for leave to appeal denied.

2-13 Mo. No. 750
Lorraine Barcellos,
Appellant,
v.
John Robbins, et al.,
Respondents.

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

2-10 Mo. No. 821
The People &c.,
Respondent,
v.
Earl Calloway,
Appellant.

Motion for leave to appeal denied.

4-10 Mo. No. 831
In the Matter of Derrick C.,
et al.
Jefferson County Department of
Social Services,
Respondent;
Deanna G.,
Appellant.

Motion for leave to appeal denied.

2-10 Mo. No. 769
Alan Chernow,
Respondent,
v.
Heman Chernow,
Appellant.

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. 868
Marylyn R. Dunn,
Appellant,

v.

Astoria Federal Savings and Loan
Association, et al.,
Respondents.

Motion for leave to appeal denied.

2-10 Mo. No. 864
In the Matter of Board of
Education of the East Meadow
Union Free School District, East
Meadow, New York, et al.,
Appellants,

v.

East Meadow Teachers Association,
et al.,
Respondents.

Motion, insofar as it seeks leave to
appeal against East Meadow Teachers
Association, dismissed upon the ground
that as to that party the order sought to
be appealed from does not finally
determine an action or proceeding within
the meaning of the Constitution; motion
for leave to appeal otherwise denied.

4-10 Mo. No. 832
In the Matter of Erie Insurance
Company,
Respondent,

v.

Traci A. Calandra,
Appellant.

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

2-10 Mo. No. 892
In the Matter of Terrance
Freeman,
Respondent,

v.

New York State Division of Human
Rights,
Respondent,
Nortel Networks, Inc.,
Appellant.

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

4-10 Mo. No. 905
Lisa E.G. and Gerald T.G., &c.
et al.,
Appellants,
v.
The Genesee Hospital, et al.,
Respondents.

Motion, insofar as it seeks leave to appeal against defendants Karin R. Dickinson, M.D., and Genesee Valley Obstetrics & Gynecology, P.C., dismissed upon the ground that as to those parties the order sought to be appealed from does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

1-10 Mo. No. 823
Gardiner International, Inc. et
al.,
Respondents,
v.
J.W. Townsend & Associates, Inc.
et al.,
Appellants.

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

2-10 Mo. No. 872
Regina Glazer, &c.,
Appellant,
v.
Choong-Hee Lee, &c., et al.,
Respondents.

Motion, insofar as it seeks leave to appeal against Michael A. Werner, M.D. and M.A.Z.E. Laboratories, dismissed upon the ground that as to those parties the order sought to be appealed from does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

1-10 Mo. No. 901
The People &c.,
Respondent,
v.
James Howard,
Appellant.

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

Mo. No. 852
HSBC Bank USA, N.A.,
Respondent,
v.
Barbara Scharf,
Appellant,
et al.,
Defendants.

Motion for reargument of motion for leave to appeal denied.

Mo. No. 1078 SSD 56
Infinity Consulting Group, Inc.,
Appellant,
v.
Town of Huntington,
Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that appellant has failed to demonstrate timeliness (see Rules of Ct of Appeals [22 NYCRR] 500.09, 500.10).

3-10 Mo. No. 837
IMS Engineers-Architects, P.C.,
Appellant,
v.
State of New York,
Respondent.

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

1-14 Mo. No. 816
In the Matter of Kimberly
Kaminester, &c.,
Respondent,
v.
Inalee Foldes,
Appellant.

Motion, insofar as it seeks leave to appeal from that part of the Appellate Division order that remanded for a hearing on contempt, dismissed upon the ground that such portion of the order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.

2-10 Mo. No. 909
Little Joseph Realty, Inc.,
Appellant,
v.
Town Board of the Town of
Babylon, et al.,
Respondents.

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

1-10 Mo. No. 627
Lombard & Co., Inc.,
Respondent,
v.
German De La Roche,
Appellant.

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.

2-14 Mo. No. 845
Patricia A. Mahoney-Buntzman,
Respondent,
v.
Arol I. Buntzman,
Appellant.

Motion for leave to appeal granted.

2-14 Mo. No. 889
Mainline Electric Corp.,
Respondent,
v.
East Quogue Union Free School
District,
Appellant.

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. 1083 SSD 57
In the Matter of Brittny
MM., a Person in
Need of Supervision.
Michele Clark, as Probation
Officer of the Columbia County
Probation Department,
Respondent;
Brittny MM.,
Appellant.

Appeal dismissed without costs, by the
Court sua sponte, upon the ground that
no substantial constitutional question
is directly involved.

Mo. No. 1084 SSD 58
Annette Meiselman,
Appellant,
v.
Lonnie Fogel, &c., et al.
Respondents.

Appeal dismissed without costs, by the
Court sua sponte, upon the ground that
no appeal lies as of right from the
unanimous order of the Appellate Division
absent the direct involvement of a
substantial constitutional question
(CPLR 5601).

2-10 Mo. No. 927
In the Matter of Jaye Miller,
Appellant,
v.
Richard Shaw,
Respondent.

Motion for leave to appeal denied.

2-13 Mo. No. 884
Igor Misicki,
Appellant,
v.
Salvatore Caradonna,
Defendant,
430-50 Shore Road Corporation,
Respondent.
(And a Third-Party Action.)

Motion for leave to appeal granted.

1-10 Mo. No. 856
Elhadi Elsheik Mohamed et al.,
Appellants,
v.
Larry Defrin, et al.,
Respondents,
Christoforos Blanis,
Appellant,
et al.,
Defendants.

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. 919
In the Matter of F. Javier
Monreal,
Appellant,
v.
Administrative Review Board of
the State Board for Professional
Medical Conduct,
Respondent.

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

Mo. No. 1085 SSD 59
John Moody,
Respondent,
v.
Svetlana Sorokina,
Appellant.
Richard Alderman,
Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.

1-10 Mo. No. 801
State of New York,
Respondent,
v.
Seventh Regiment Fund,
Appellant.

Motion for leave to appeal denied.

1-10 Mo. No. 803
In the Matter of Antonia Mykala
P., &c.

Motion for leave to appeal denied.

Antonio P.,
Appellant,
The Children's Aid Society,
Respondent.

4-10 Mo. No. 861
In the Matter of Stacie L. Shaw,
&c.,
Appellant,
v.
Brian T. Shaw,
Respondent.

Motion for leave to appeal denied.

1-13 Mo. No. 887
Marek Szpakowski et al.,
Respondents,
v.
Shelby Realty, LLC,
Respondent,
Forthright Development Company,
LLC,
Appellant,
Metropolitan Hotels, LLC,
Defendant.
(And a Third-Party Action.)

Motion, insofar as it seeks leave to appeal against Shelby Realty, LLC, dismissed upon the ground that as to that party the order sought to be appealed from does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

2-10 Mo. No. 781
In the Matter of William T.
(Anonymous),
Appellant.

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

4-10 Mo. No. 911
In the Matter of Shadazia W.,
et al.

Motion for leave to appeal denied.

Onondaga County Department of
Social Services,
Respondent;
Charles W.,
Appellant;
et al.,
Respondent.

4-10 Mo. No. 876
In the Matter of Tara L.W.

Motion for leave to appeal denied.

Cayuga County Department of
Health and Human Services,
Respondent;
Lewis W., IV,
Appellant.

2-13 Mo. No. 844
Myra Warman,
Appellant,
v.
Haim Shimon Warman,
Respondent.

Motion for leave to appeal denied.
Motion for a stay dismissed as academic.

Mo. No. 851
Wells Fargo Bank, &c.,
Respondent,
v.
Barbara Scharf,
Appellant,
et al.,
Defendants.

Motion for reargument of motion for leave
to appeal denied.

3-10 Mo. No. 885
In the Matter of Mary XX.

Key Bank National Association,
&c.,

Respondent;

Linda KK.,

Appellant;

et al.,

Respondent.

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