

Motion to Certify a Controlling Question of the Law Pursuant to Title 28 sec. 1292(b) and for a Stay in the matter of Akil Al-Jundi, et al. vs. Rockefeller, et al.

FILED 7/10/90
JRM/LLP

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

AKIL AL-JUNDI s/k/a Herbert Scott Deane,
Plaintiffs
vs.
THE ESTATE OF NELSON A. ROCKEFELLER,
et al.,
Defendants.

**MOTION TO CERTIFY
A CONTROLLING
QUESTION OF LAW
Pursuant to Title 28
§1292(b) AND FOR A
STAY**

CIVIL 75-132

Defendant Vincent Mancusi hereby moves for an order
Relief Requested

1. Certifying that the Memorandum and Order of the Court dated June
26, 1990 denying defendant Vincent Mancusi's motion for summary
judgment involves the following controlling questions of law as to
which there is a substantial ground for difference of opinion and
that an immediate appeal may terminate or materially advance the
ultimate termination of the litigation:

Question Number 1
Does the new, more liberal summary judgment rule articulated
in the Supreme Court *Celotex* trilogy require dismissal of the
action where plaintiffs have not filed any statement of
contested facts, admissible documentary evidence or
affidavits or personal knowledge is oppositive to the motion?

Question Number 2
Is the abridgment of this action in Federal Court under
Title 28 §1292 as a parallel right to ultimately recover
money damages against the State of New York for action which
defendant Mancusi took or failed to take in his capacity as
superintendent of the Attica Correctional Facility contrary
to the Federal of Will, s. 1983 and 28 U.S.C. § 1343
§ 1343, 2284 (1989)?

Motion to Certify a Controlling Question of the Law Pursuant to Title 28 sec. 1292(b) and for a Stay in the matter of Akil Al-Jundi, et al. vs. The Estate of Nelson A. Rockefeller, et al. The Motion, dated July 3, 1990, was prepared by Richard E. Moot for the United States District Court, Western District of New York. Also attached is a Notice of Motion and a Certificate of Service under the same date.

Identifier

NYSA_W0100-21_00015719

Alternate Identifier

Case Files: 75-132

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