

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.

6/27/1990
200/12/2

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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

NOTION TO CERTIFY
A CONTROLLING
QUESTION OF LAW
PURSUANT TO TITLE 28
SECTION 1292(b) AND FOR A
STAY
CIVIL 75-1328

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 so to which there is a substantial ground for difference of opinion and that an immediate appeal may resolve 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 controverted facts, admissible documentary evidence or affidavits or personal knowledge in opposition to the motion?

Question Number 2
Is the administration of this action in Federal Court under Title 28 §1987 as a parallel right to ultimately recover money damages against the State of New York for actions which defendant Mancusi took or failed to take in his capacity as Superintendent of the Attica Correctional Facility contrary to the Federal of Will v. Richardson Dept of State Police 179 A.2d 204 (1969)?

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

Source

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