

April 01, 2014

CASES

1 No. 123 SSM 4
433 Sutton Corp.
 Appellant,
 v.
Robert Broder,
 Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, order of Supreme Court, New York County, reinstated, and certified question answered in the negative. The Appellate Division erred in determining that defendant was the prevailing party. Accordingly, defendant is not entitled to attorneys' fees. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

3 No. 38
In the Matter of the Association for a Better
Long Island, Inc., et al.,
 Petitioners,
Town of Riverhead et al.,
 Appellants,
 v.
New York State Department of
Environmental Conservation,
et al.,
 Respondents.

Order modified, without costs, by reinstating appellants' first, second and third causes of action and, as so modified, affirmed.
Opinion by Chief Judge Lippman.
Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

4 No. 36
Lori Hoover, et al.,
 Respondents,
 v.
New Holland North America, Inc., &c., et al.,
 Appellants,
et al.,
 Defendants.
(And a Third-Party Action.)

Order affirmed, with costs.
Opinion by Judge Abdus-Salaam.
Chief Judge Lippman and Judges Graffeo, Read, Pigott and Rivera concur.
Judge Smith dissents and votes to reverse in an opinion.

1 No. 43
The People &c.,
 Respondent,
 v.
Todd Johnson,
 Appellant.

Order reversed, defendant's motion to suppress granted and the indictment dismissed, in a memorandum.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

1 No. 24
James L. Melcher,
 Appellant,
 v.
Greenberg Traurig, LLP, et al.,
 Respondents.

Order reversed, with costs, and defendants' motion to dismiss the complaint denied.
Opinion by Judge Read.
Chief Judge Lippman and Judges Graffeo, Smith, Pigott and Rivera concur.
Judge Abdus-Salaam took no part.

4 No. 32
The People &c.,
 Respondent,
 v.
Merlin G. Sage,
 Appellant.

Order reversed and the indictment as to defendant dismissed, with leave to the People, if they be so advised, to resubmit the charge of manslaughter in the first degree to a grand jury.
Opinion by Judge Rivera.
Chief Judge Lippman and Judges Graffeo, Read and Smith concur.
Judge Pigott dissents and votes to affirm in an opinion in which Judge Abdus-Salaam concurs.

MOTIONS

1 Mo. No. 2014-74
Ableco Finance LLC,
 Appellant,
 v.
John F. Hilson, et al.,
 Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Judge Abdus-Salaam took no part.

2 Mo. No. 2014-80
In the Matter of AGBH Bel Air Rental, LLC,
 Respondent,
 v.
Hilary Best,
 Appellant.

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain the motion for leave to appeal from the order of the Appellate Division entered in this proceeding commenced in Civil Court (see NY Const, art VI, § 3[b][7]; CPLR 5602[a]).
Motion for poor person relief dismissed as academic.

2 Mo. No. 2014-87
The People &c.,
 Respondent,
 v.
Charles Cox,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2014-65
Maria DiMeo, &c.,
 Appellant,
 v.
Rotterdam Emergency Medical Services, Inc.,
et al.,
 Respondents.

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

4 SSD 18
In the Matter of GM Components Holdings,
LLC,
 Appellant,
 v.
Town of Lockport Industrial Development
Agency,
 Respondent.

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

1 Mo. No. 2014-29
In the Matter of Jack J. Grynberg, et al.,
 Respondents,
 v.
BP Exploration Operating Company Limited,
et al.,
 Appellants.

Motions 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.

1 Mo. No. 2014-292
In the Matter of Jack J. Grynberg, et al.,
 Respondents,
 v.
BP Exploration Operating Company Limited,
et al.,
 Appellants.

Motions for a stay dismissed as academic.

3 Mo. No. 2014-107
In the Matter of Michael Hoffler,
 Appellant,
 v.
Robert M. Jacon, &c. 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 proceeding within the
meaning of the Constitution.

4 Mo. No. 2014-101
The People &c. ex rel. Norman Jenkins,
 Appellant,
 v.
Rikers Island Correctional Facility Warden et
al.,
 Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2014-118
Nathan Juett,
 Appellant,
 v.
Stephen P. Lucente, &c., 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 Mo. No. 2014-61
Meggan Kruger,
 Appellant,
 v.
Donzelli Realty Corporation,
 Respondent,
et al.,
 Defendants.

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

3 Mo. No. 2014-86
In the Matter of Maetreum of Cybele, Magna
Mater, Inc.,
 Respondent,
 v.
Nancy McCoy, &c., et al.,
 Appellants.
(And Two Other Related Proceedings.)

Motion for leave to appeal granted.

1 Mo. No. 2013-1267
In the Matter of Sjuqwan Anthony Zion Perry
M., &c.

Charnise Antonia M.,
 Appellant,
et al.,
 Respondent,
Lutheran Social Services for Metropolitan
New York, et al.,
 Respondents.

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

2 Mo. No. 2014-66
The People &c.,
 Respondent,
v.
Nathaniel Manson,
 Appellant.

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

2 Mo. No. 2014-62
In the Matter of Kevin M. McGuire, &c.,
 Respondent,
v.
Janet DiFiore, &c.,
 Appellant.

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.

3 Mo. No. 2014-132
Daniel Miller,
 Appellant,
v.
State of New York,
 Respondent.

Motion for leave to appeal dismissed upon the
ground that the paper sought to be appealed from is
not a judgment or an order from which an appeal to
this Court may be taken (see CPLR 5512[a]).

4 Mo. No. 2014-63
Judy Mills,
Respondent,
v.
Richard Mills,
Appellant.

Motion for leave to appeal dismissed upon the ground that the orders sought to be appealed from do not finally determine the action within the meaning of the Constitution.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2014-100
A. Richard Parkoff,
Appellant,
v.
Averim Stavsky, et al.,
Respondents.

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

3 Mo. No. 2014-130
In the Matter of Darryl P.,
Appellant,
v.
Brian Fischer, &c.,
Respondent.

Motion for reconsideration of this Court's January 9, 2014 dismissal order denied.

3 Mo. No. 2014-81
Heitor Portes,
Respondent,
v.
New York State Thruway Authority,
Appellant.
(And Another Related Claim.)

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 SSD 19
The People &c.,
Respondent,
v.
Stephen Roberts,
Appellant.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no civil appeal lies from the order entered in this criminal action (see NY Const, art VI, § 3[b]; CPLR 5601; CPL 450.90).

1 Mo. No. 2014-95
Damaris Rosado, &c., et al.,
Plaintiffs,
v.
Njie Alhati, et al.,
Defendants.

Brand Brand Nomberg & Rosenbaum, LLP,
Nonparty Appellant,
v.
McMahon & McCarthy,
Nonparty Respondent.

2 Mo. No. 2014-106
Anthony Rucano,
Appellant,
v.
Anna Lorusso-Moramarco, &c.,
Respondent.

1 Mo. No. 2014-119
Ira Russack,
Respondent,
v.
Harvey Russack et al.,
Appellants,
Sterling Real Estate Holding Company, Inc.,
Defendant.

1 Mo. No. 2014-56
Roberto Santana, &c.,
Respondent,
v.
Edwin De Jesus, et al.,
Appellants.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Judge Abdus-Salaam took no part.

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.
Motion for poor person relief dismissed as academic.

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.

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

2 Mo. No. 2014-92
Shimon Silberstein, &c., et al.,
Appellants,
v.
Maimonides Medical Center et al.,
Respondents.

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

4 Mo. No. 2014-114
The People &c. ex rel. Unique Smith,
Appellant,
v.
Malcolm R. Cully, &c. et al.,
Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2014-197
In the Matter of State Farm Mutual
Automobile Insurance Company,
Appellant,
v.
Patrick Fitzgerald,
Respondent.

Motion for leave to appeal granted.
Motion for a stay granted.
Judge Rivera took no part.

4 Mo. No. 2014-113
In the Matter of Janie Stearns,
Respondent,
v.
Robert Crawford,
Appellant.
(And Another Proceeding.)

Motion for leave to appeal denied.

3 SSD 16
In the Matter of Volodymyr I. Tkachyshyn,
Appellant.
Commissioner of Labor,
Respondent.
(App. Div. No. 516210)

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

3 SSD 17
In the Matter of Volodymyr I. Tkachyshyn,
 Appellant.
Commissioner of Labor,
 Respondent.
(App. Div. No. 516398)

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

1 Mo. No. 2014-105
In the Matter of Misba Uddin,
 Appellant,
 v.
New York City Taxi and Limousine
Commission,
 Respondent.

Motion for reargument of motion for leave to appeal
denied.

4 Mo. No. 2014-85
The People &c.,
 Respondent,
 v.
Bruce Vaillancourt,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2014-75
In the Matter of Elaine D. Ward,
 Respondent,
 v.
The City of New York, et al.,
 Appellants.

Motion for leave to appeal granted.

3 Mo. No. 2014-102
Frederick Williams,
 Appellant,
 v.
Joe Lee Thomas,
 Respondent.

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

2 Mo. No. 2014-93
The People &c.,
 Respondent,
 v.
Steven Wood,
 Appellant.

Motion for leave to appeal denied.