

April 08, 2014

CASES

2 No. 41
In the Matter of Gabriela A. (Anonymous),
Respondent.
Presentment Agency,
Appellant.

Order affirmed, without costs.
Opinion by Judge Read.
Chief Judge Lippman and Judges Graffeo, Rivera and
Abdus-Salaam concur.
Judge Pigott dissents in an opinion in which Judge
Smith concurs.

1 No. 54
Mashreqbank PSC,
Appellant,
v.
Ahmed Hamad Al Gosaibi & Brothers
Company,
Respondent.

Order reversed, with costs, judgment of Supreme
Court, New York County, reinstated, and certified
question answered in the negative.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Graffeo, Read,
Pigott and Rivera concur.
Judge Abdus-Salaam took no part.

Ahmed Hamad Al Gosaibi & Brothers
Company,
Third-Party Respondent,
v.
Maan Abdul Waheed Al Sanea,
Third-Party Appellant,
Awal Bank BSC,
Third-Party Defendant.

4 No. 47
Eugene Palladino,
Appellant,
v.
CNY Centro, Inc., et al.,
Respondents.

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

2 No. 48
The People &c.,
 Respondent,
 v.
Enrique Rivera,
 Appellant.

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

1 No. 44
The People &c.,
 Respondent,
 v.
Marsha Sibblies,
 Appellant.

Order reversed and information dismissed.
Defendant's motion to dismiss the information under
CPL 30.30 should have been granted.
Chief Judge Lippman and Judges Graffeo, Read,
Smith, Pigott and Rivera concur.
Chief Judge Lippman concurs in an opinion in which
Judges Smith and Rivera concur.
Judge Graffeo concurs in an opinion in which Judges
Read and Pigott concur.
Judge Abdus-Salaam took no part.

1 No. 53
In the Matter of Subway Surface Supervisors
Association,
 Respondent,
 v.
New York City Transit Authority,
 Appellant.

Order reversed, with costs, appellant's motion to
dismiss the petition granted, petition dismissed, and
certified question answered in the negative, in a
memorandum.
Judges Graffeo, Read, Smith and Pigott concur.
Judge Rivera concurs in result in an opinion in which
Chief Judge Lippman concurs.
Judge Abdus-Salaam took no part.

MOTIONS

2 Mo. No. 2014-239
Stephen Allen,
 Plaintiff,
Sandra Morrison-Allen,
 Appellant,
 v.
Mercyfirst, &c.,
 Respondent.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2014-180
In the Matter of State of New York,
 Respondent,
 v.
Larry B. (Anonymous),
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2014-152
Courtney Boyles,
 Appellant,
 v.
Carrie L. Lewis et al.,
 Respondents.

Motion for leave to appeal denied.
Motion to expand the record denied.

2 Mo. No. 2014-201
In the Matter of Rachel Fulmer,
 Appellant,
 v.
Michael Buxenbaum, Jr.,
 Respondent.

Motion for reargument of motion for leave to appeal denied.

3 Mo. No. 2014-115
Jawan Chambliss,
 Appellant,
 v.
Isaac Stephen Davis,
 Respondent,
Astro Homes of Central NY Inc., &c. et al.,
 Defendants.

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

4 Mo. No. 2014-208
Charter One Bank, FSB, &c.,
 Respondent,
 v.
Richard F. Mills,
 Appellant,
et al.,
 Defendants.

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.

4 Mo. No. 2014-195
In the Matter of Darrell Clinton,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

Motion for leave to appeal dismissed as untimely (see CPLR 5513[b]).

4 Mo. No. 2014-175
Patricia J. Curto,
 Appellant,
 v.
National Fuel Corporation,
 Respondent.

Motion, insofar as it seeks leave to appeal from the Appellate Division order of affirmance, denied; motion, insofar as it seeks leave to appeal from the Appellate Division orders (1) denying reargument or leave to appeal to appeal to this Court and (2) dismissing the appeal from Supreme Court's order denying reargument, dismissed upon the ground that such orders do not finally determine the action within the meaning of the Constitution.

1 Mo. No. 2014-188
In the Matter of Talakkottur R. David,
 Appellant;
Departmental Disciplinary Committee for the
First Judicial Department,
 Respondent.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2014-179
Richard Dixson,
 Respondent,
 v.
Waterways at Bay Pointe Home Owners
Association, Inc., et al.,
 Appellants.
(And a Third-Party Action.)

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. 2014-187
The People &c. ex rel. Leo Duchnowski,
 Appellant,
 v.
New York State Division of Parole, 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 and is not an order of the type provided for in CPLR 5602(a)(2).

1 Mo. No. 2014-193
Aaron Elkin,
 Appellant,
 v.
Andrea Labis,
 Respondent.

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.

2 Mo. No. 2014-58
Dorothy M. Faison, &c.,
 Appellant,
 v.
Tonya Lewis, &c., et al.,
 Respondents.

Motion, insofar as it seeks leave to appeal against defendant Bank of America, N.A., granted; motion for leave to appeal otherwise dismissed upon the ground that the remainder of the Appellate Division order sought to be appealed from does not finally determine the action within the meaning of the Constitution.

2 Mo. No. 2014-198
Mae Fleming,
 Respondent,
 v.
Willie M. Davis,
 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.

4 Mo. No. 2014-206
In the Matter of Green Thumb Lawn Care,
Inc. et al.,
 Appellants,
 v.
Peter M. Iwanowicz, &c., et al.,
 Respondents.
(And Another Proceeding.)

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

3 Mo. No. 2014-184
In the Matter of Aaron Hand,
 Appellant,
 v.
Eric Gutwein, &c.,
 Respondent.

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

1 Mo. No. 2014-219
Diana Joy Ingham derivatively on behalf of
Cobalt Asset Management, L.P.,
Respondent,
v.
Charles R. Thompson, et al.,
Appellants,
et al.,
Defendants.

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

2 Mo. No. 2014-209
In the Matter of Clifford Joseph,
Appellant,
v.
MTA, New York City Transit,
Respondent.

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

4 Mo. No. 2014-181
In the Matter of Kelsey R.K. et al.

Jefferson County Department of Social
Services,
Respondent;
John J.K., Jr. and Sheila K.,
Appellants.

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

1 Mo. No. 2014-71
Tim F. Kinsella,
Appellant,
v.
Powerguard Specialty Insurance Services,
LLC, et al.,
Respondents.

Motion for leave to appeal granted.

3 Mo. No. 2014-109
Lancaster Development, Inc.,
et al.,
 Appellants,
 v.
Joan McDonald, &c. et al.,
 Respondents.

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

3 Mo. No. 2014-156
Lancaster Development, Inc.,
et al.,
 Appellants,
 v.
Joan McDonald, &c. et al.,
 Respondents.

Motion by the National Black Chamber of Commerce, Inc. et al. for leave to file an affidavit amici curiae on the motion for leave to appeal herein granted and the affidavit is accepted as filed.

2 Mo. No. 2014-217
The People &c.,
 Respondent,
 v.
Harold McPherson,
 Appellant.

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

 Mo. No. 2014-244
Seth Mitchell, CFA,
 Appellant,
 v.
New York University, et al.,
 Respondents.

On the Court's own motion, appeal transferred, without costs, to the Appellate Division, First Department, upon the ground that a direct appeal does not lie when questions other than the constitutional validity of a statutory provision are involved (see NY Const, art VI, §§ 3[b][2], 5[b]; CPLR 5601[b][2]).
Motion for ancillary relief denied.

2 Mo. No. 2014-172
In the Matter of Stephen T. Mitchell,
 Appellant,
 v.
Patricia DiMango, &c. et al.,
 Respondents.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2014-200
The People &c. ex rel. Eddie Murdock,
 Appellant,
 v.
Michael Sposato, &c.,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2014-202
In the Matter of Julio Nova,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2014-223
The People &c.,
 Respondent,
 v.
Richard Perales,
 Appellant.

Motion to vacate this Court's February 7, 2014 preclusion order granted.

4 Mo. No. 2014-204
In the Matter of Cayden L.R.

Jefferson County Department of Social
Services,
 Respondent;
Melissa R.,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2014-139
Revital Realty Group, LLC,
 Respondent,
 v.
Ulano Corporation, &c.,
 Appellant.

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

2 Mo. No. 2014-176
Hugh Reyes,
 Appellant,
 v.
Brinks Global Services USA, Inc.,
et al.,
 Respondents.

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

4 Mo. No. 2014-194
Joseph Saint et al.,
 Appellants,
 v.
Syracuse Supply Company,
 Respondent.

Motion for leave to appeal granted.

4 Mo. No. 2014-205
Joseph Saint et al.,
 Appellants,
 v.
Syracuse Supply Company,
 Respondent.

Motion by the New York State Trial Lawyers Association for leave to file a brief amicus curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.

 Mo. No. 2014-131
The People &c. ex rel. Kenley Stanislas,
 Appellant,
 v.
Warden, &c., et al.,
 Respondents.

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain the motion (see NY Const, art VI, § 3[b]; CPLR 5602).

1 Mo. No. 2014-203
In the Matter of Jomo Williams,
 Appellant,
 v.
Hon. R.A.W., et al.,
 Respondents.

Motion for reargument denied.

4 Mo. No. 2014-153
In the Matter of Woodside Manor Nursing
Home, et al.,
 Appellants,
 v.
Nirav R. Shah, M.D., &c., et al.,
 Respondents.

Motion for leave to appeal granted.

2 Mo. No. 2014-191
The People &c.,
 Respondent,
 v.
Ruben Zavala,
 Appellant.

Motion for leave to appeal denied.