

June 26, 2014

CASES

1 No. 177 SSM 13
In the Matter of Kelley S. Boyd,
 Respondent,
 v.
New York State Division of Housing and
Community Renewal, et al.,
 Appellants.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, judgment of Supreme Court, New York County, reinstated, and certified question answered in the negative. New York State Division of Housing and Community Renewal's determination denying tenant's petition for administrative review was not arbitrary or capricious, as tenant failed to set forth sufficient indicia of fraud to warrant consideration of the rental history beyond the four-year statutory period (see Matter of Grimm v State of N.Y. Div. of Hous. & Community Renewal Off. of Rent Admin., 15 NY3d 358, 366-367 [2010]). Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

3 No. 140
In the Matter of Pablo Costello,
 Appellant,
 v.
New York State Board of Parole
et al.,
 Respondents.

Order reversed, with costs, the challenged determination annulled and petitioner's parole reinstated, in a memorandum. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

No. 106
In the Matter of the Hon. Cathryn M. Doyle, a
Judge of the Surrogate's Court, Albany
County,
Petitioner,
State Commission on Judicial Conduct,
Respondent.

Determined sanction accepted, without costs, and
Cathryn M. Doyle removed from the Office of
Surrogate of Albany County.
Opinion Per Curiam.
Chief Judge Lippman and Judges Read, Smith,
Rivera and Abdus-Salaam concur.
Judge Pigott dissents and votes to censure in an
opinion.
Judge Graffeo took no part.

1 No. 132
The People &c.,
Respondent,
v.
Oliverio Galindo,
Appellant.

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

1 No. 176 SSM 10
The People &c.,
Appellant,
v.
Jeffrey Johnson,
Respondent.

On review of submissions pursuant to section 500.11
of the Rules, appeal dismissed upon the ground that
the reversal by the Appellate Division was not "on
the law alone or upon the law and such facts which,
but for the determination of law, would not have led
to reversal" (CPL 450.90[2][a]).
Chief Judge Lippman and Judges Graffeo, Read,
Smith, Pigott, Rivera and Abdus-Salaam concur.

1 No. 134
In the Matter of New York Statewide
Coalition of Hispanic Chambers of
Commerce, et al.,
 Respondents,
 v.
The New York City Department of Health and
Mental Hygiene, et al.,
 Appellants.

Order affirmed, with costs.
Opinion by Judge Pigott.
Judges Graffeo, Smith and Abdus-Salaam concur,
Judge Abdus-Salaam in a concurring opinion.
Judge Read dissents and votes to reverse in an
opinion in which Chief Judge Lippman concurs.
Judge Rivera took no part.

1 No. 121
Norex Petroleum Limited,
 Appellant,
 v.
Leonard Blavatnik, et al.,
 Respondents.

Order reversed, with costs, and case remitted to
Supreme Court, New York County, for further
proceedings in accordance with the opinion herein.
Opinion by Judge Read.
Chief Judge Lippman and Judges Graffeo, Smith,
Pigott, Rivera and Abdus-Salaam concur.

MOTIONS

1 Mo. No. 2014-436
ACE Securities Corp., &c.,
Appellant,
v.
DB Structured Products, Inc.,
Respondent.

Motion for leave to appeal granted.
Judge Abdus-Salaam took no part.

1 Mo. No. 2014-584
ACE Securities Corp., &c.,
Appellant,
v.
DB Structured Products, Inc.,
Respondent.

Motion by CXA-13 Corporation for leave to file a
brief amicus curiae on the motion for leave to appeal
herein granted and the brief is accepted as filed.
Judge Abdus-Salaam took no part.

1 Mo. No. 2014-589
ACE Securities Corp., &c.,
Appellant,
v.
DB Structured Products, Inc.,
Respondent.

Motion by the Association of Mortgage Investors for
leave to file a brief amicus curiae on the motion for
leave to appeal herein granted and the brief is
accepted as filed.
Judge Abdus-Salaam took no part.

4 SSD 45
In the Matter of Paul Shearman Allen, an
Attorney.

Grievance Committee of the Seventh Judicial
District,
Respondent,

Paul Shearman Allen,
Appellant.

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).

3 Mo. No. 2014-416
In the Matter of Joseph Bove,
Appellant,
v.
Town of Schodack, et al.,
Respondents.
(And Two Other Related Proceedings.)

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

2 Mo. No. 2014-420
In the Matter of Johnny Briggs,
Respondent,
v.
Angela Michele McKinney-Mays,
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.

2 Mo. No. 2014-605
The People &c.,
Appellant,
v.
Jarrod Brown,
Respondent.

Motion for assignment of counsel granted and Scott A. Rosenberg, Esq., The Legal Aid Society, 199 Water Street, New York, NY 10038 assigned as counsel to the respondent on the appeal herein.

1 Mo. No. 2014-591
The People &c.,
Respondent,
v.
Lee Carr,
Appellant.

Motion for assignment of counsel granted and Scott A. Rosenberg, Esq., The Legal Aid Society, 199 Water Street, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2014-405
In the Matter of Walter E. Carver,
Respondent,
v.
State of New York, et al.,
Appellants.

Motion for leave to appeal granted.

4 SSD 40
Joseph J. Cassata,
 Appellant,
 v.
State of New York, et al.,
 Respondents,
et al.,
 Defendant.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved. Chief Judge Lippman and Judge Pigott took no part.

 Mo. No. 2014-610
The People &c.,
 Respondent,
 v.
Joseph Conceicao,
 Appellant.

Motion for assignment of counsel granted and Scott A. Rosenberg, Esq., The Legal Aid Society, 199 Water Street, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2014-321
Jadwiga Dabrowski, &c.,
 Appellant,
 v.
Metropolitan Life Insurance Company,
 Respondent.

On the Court's own motion, appeal dismissed without costs, 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). Motion for leave to appeal denied. Chief Judge Lippman took no part.

1 Mo. No. 2014-590
The People &c.,
 Respondent,
 v.
Raymond Denson,
 Appellant.

Motion for assignment of counsel granted and Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, NY 10007 assigned as counsel to the appellant on the appeal herein.

3 Mo. No. 2014-423
In the Matter of Evan E., &c.

Ulster County Department of Social Services,
Respondent;
Susan F.,
Respondent.
Ulster County Court Appointed Special
Advocates,
Appellant.
(And Three Other Related Proceedings.)

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.
Chief Judge Lippman took no part.

1 Mo. No. 2014-513
In the Matter of Lynik Jomae E., Jr., &c.

Lynik Jomae E.,
Appellant,
Harlem Dowling Children's Services,
Respondent.

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

1 Mo. No. 2014-519
In the Matter of Ebonee Annastasha F., &c.

Crystal Arlene F., &c.,
Appellant,
Graham-Windham Services to Families and
Children,
Respondent.

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

1 Mo. No. 2014-327
Albert Garcia,
Appellant,
v.
The City of New York, et al.,
Respondents,
et al.,
Defendants.

Motion for leave to appeal granted.

1 Mo. No. 2014-409
Getty Properties Corp. et al.,
Respondents,
v.
Getty Petroleum Marketing Inc.,
Defendant,
1314 Sedgwick Ave. LLC, et al.,
Appellants.

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. 2014-617
The People &c.,
Respondent,
v.
Clifford Graham,
Appellant.

Motion for assignment of counsel granted and Philip Rothschild, Esq., Hiscock Legal Aid Society, 351 South Warren Street, Syracuse, NY 13202 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2014-540
The People &c. ex rel. Ronald Jackson,
Appellant,
v.
Yolanda Canty, &c.,
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.

3 Mo. No. 2014-622
The People &c.,
Respondent,
v.
Devon Jones,
Appellant.

Motion for an extension of the time within which to apply for permission to appeal pursuant to CPL 460.20 granted and motion papers treated as a timely CPL 460.20 application.

3 Mo. No. 2014-581
The People &c.,
Respondent,
v.
Steven Lashway,
Appellant.

Motion for poor person relief granted.

3 Mo. No. 2014-287
In the Matter of Kayla LL. et al.

Greene County Department of Social
Services,
Respondent;
Joseph NN.,
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.

1 Mo. No. 2014-396
In the Matter of Manuel Mateo, &c.,
Appellant,
v.
Raymond W. Kelly, &c., et al.,
Respondents.

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

3 Mo. No. 2014-415
The People &c.,
Respondent,
v.
William S. Muirhead Jr.,
Appellant.

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

4 Mo. No. 2014-318
The People &c.,
Respondent,
v.
Lance J. Reed,
Appellant.

Motion for reargument denied.

4 SSD 42
Steven C. Ridge,
 Appellant,
 v.
Alice Gold, et al.,
 Defendants,
Jay Braymiller,
 Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution.

4 Mo. No. 2014-494
In the Matter of Makayla S.

Motion for leave to appeal denied.

Steuben County Department of Social
Services,
 Respondent;
Alecia P.,
 Appellant;
David S.,
 Respondent.

 SSD 44
Robert L. Schulz,
 Appellant,
 v.
State of New York Executive, et al.,
 Respondents.
(Index No. 4115-13)

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, Third Department, upon the ground that a direct appeal does not lie where the judgment appealed from does not finally determine the action within the meaning of the Constitution (see Flushing Natl. Bank v City of New York, 38 NY2d 999 [1976]; NY Const, art VI, §§ 3[b][2], 5[b]; CPLR 5601[b][2]).

 SSD 46
Robert L. Schulz, et al.,
 Appellants,
 v.
New York State Executive, et al.,
 Respondents.
(Index No. 1232-13)

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, Third Department, upon the ground that a direct appeal does not lie when questions other than the constitutional validity of a statutory provision are involved (NY Const, art VI, §§ 3[b][2], 5[b]; CPLR 5601[b][2]).

SSD 43

Robert L. Schulz,
Appellant,
v.
Sheldon Silver, &c.,
Respondent.

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, Third Department, upon the ground that a direct appeal does not lie when questions other than the constitutional validity of a statutory provision are involved (NY Const, art VI, §§ 3[b][2], 5[b]; CPLR 5601[b][2]).

1 SSD 41
In the Matter of the State of New York,
Respondent,
v.
Enrique T.
Appellant.

Appeal, insofar as it seeks review of the February 27, 2014 Appellate Division order, dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved. Defendant's appeal from the February 27, 2014 Appellate Division order brings up for review only the prior nonfinal Appellate Division order entered January 26, 2012 (see CPLR 5601[d]; CPLR 5501[b]; Curiale v Ardra Ins. Co., 86 NY2d 774 [1995]; Matter of Greatsinger, 66 NY2d 680, 682-683 [1985]; Gilroy v American Broadcasting Co., 46 NY2d 580, 584 [1979]).

1 Mo. No. 2014-606
The People &c.,
Appellant,
v.
Patrick Thomas,
Respondent.

Motion for assignment of counsel granted and Scott A. Rosenberg, Esq., The Legal Aid Society, 199 Water Street, New York, NY 10038 assigned as counsel to the respondent on the appeal herein.

1 SSD 49
Michele Trezza,
 Appellant,
Susan Giddes,
 Plaintiff,
 v.
Metropolitan Transportation Authority, et al.,
 Respondents,
Angeleasa Olsen,
 Defendant.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the Appellate Division does not have the power to grant leave to appeal to this Court on a certified question from an order granting a new trial (see CPLR 5601[c], 5602[b][1]; Fishman v Manhattan & Bronx Surface Tr. Operating Auth., 78 NY2d 878 [1991]; Maynard v Greenberg, 82 NY2d 913, 915 [1994]), without prejudice to appellant stipulating in a timely fashion as determined by the Appellate Division to a reduced award for past pain and suffering and moving for leave to appeal at the Appellate Division pursuant to CPLR 5602(a)(1)(ii) from the amended judgment entered on such stipulation.

2 Mo. No. 2014-385
Wells Fargo Bank, &c.,
 Appellant,
 v.
Lucina Hodge, et al.,
 Defendants,
Joseph Callender,
 Respondent.

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 SSD 47
Andrew E. Wisoff,
 Appellant,
 v.
City of Schenectady,
 Respondent.

Appeal, insofar as taken from that portion of the Appellate Division order that affirmed the Supreme Court order denying reconsideration, dismissed without costs, by the Court sua sponte, upon the ground that such portion of the order does not finally determine the action within the meaning of the Constitution; appeal otherwise dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.

2 Mo. No. 2014-274
Wei Wen Xie,
 Appellant,
 v.
Ye Jiang Yong,
 Respondent.

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