

November 19, 2015

**CASES**

2                    No. 139  
In the Matter of Walter E. Carver,  
    Respondent,  
    v.  
State of New York, et al.,  
    Appellants.

Supreme Court judgment appealed from and  
Appellate Division order insofar as sought to be  
reviewed affirmed, without costs.  
Opinion by Chief Judge Lippman.  
Judges Rivera, Stein and Fahey concur.  
Judge Abdus-Salaam dissents in an opinion in which  
Judge Pigott concurs.

2                    No. 158  
In the Matter of Estevan Gentil,  
    Respondent,  
    v.  
Hon. Ira Margulis, &c.,  
    Respondent,  
Hon. Richard A. Brown, &c.,  
    Appellant.

Order reversed, without costs, and petition dismissed,  
in a memorandum.  
Chief Judge Lippman and Judges Pigott, Rivera and  
Abdus-Salaam concur.  
Judge Fahey concurs in result in an opinion in which  
Judge Stein concurs.

1                    No. 160  
The People &c.,  
    Respondent,  
    v.  
Antonio Martinez,  
    Appellant.

Order affirmed.  
Opinion by Chief Judge Lippman.  
Judges Rivera, Abdus-Salaam, Stein and Fahey  
concur.  
Judge Pigott dissents in an opinion.

                    No. 154  
The People &c.,  
    Respondent,  
    v.  
Matthew P.,  
    Appellant.

Order affirmed.  
Opinion by Judge Stein.  
Judges Pigott, Rivera, Abdus-Salaam and Fahey  
concur.  
Chief Judge Lippman dissents in an opinion.

4                    No. 151  
In the Matter of Sierra Club, et al.,  
    Appellants,  
    v.  
Village of Painted Post, et al.,  
    Respondents.

Order reversed, with costs, and matter remitted to the Appellate Division, Fourth Department, for consideration of issues raised but not determined on the appeal to that court.  
Opinion by Judge Abdus-Salaam.  
Chief Judge Lippman and Judges Pigott, Rivera, Stein and Fahey concur.

2                    No. 176  
The People &c.,  
    Respondent,  
    v.  
Samuel Small, Also Known as Samuel  
Smalls,  
    Appellant.

Order modified by remitting the case to Supreme Court, Kings County, for resentencing in accordance with the opinion herein and, as so modified, affirmed.  
Opinion by Judge Pigott.  
Chief Judge Lippman and Judges Rivera, Abdus-Salaam, Stein and Fahey concur.

1                    No. 210 SSM 22  
Switzerland Green,  
    Appellant,  
    v.  
Metropolitan Transportation Authority Bus  
Company, et al.,  
    Respondents,  
Tyese Laws, et al.,  
    Defendants.  
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Tyese Laws,  
    Appellant,  
    v.  
Metropolitan Transportation  
Authority Bus Company, et al.,  
    Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order, insofar as appealed from, reversed, with costs; motion of defendants Metropolitan Transportation Authority Bus Company and Isael Reyes for summary judgment denied; and certified question not answered as unnecessary. On this record, whether the emergency doctrine precludes liability presents a question of fact and, therefore, summary judgment for defendants Metropolitan Transportation Authority Bus Company and Isael Reyes was inappropriate.  
Chief Judge Lippman and Judges Pigott, Rivera, Abdus-Salaam, Stein and Fahey concur.

4                    No. 152  
The People &c.,  
    Respondent,  
    v.  
Willie L. Wragg,  
    Appellant.

Order affirmed.  
Opinion by Judge Rivera.  
Chief Judge Lippman and Judges Pigott, Abdus-  
Salaam and Stein concur.  
Judge Fahey took no part.

## MOTIONS

2 Mo. No. 2015-1083

The People &c.,  
Respondent,

v.

Manuel Arocho,  
Appellant.

Motion for leave to appeal denied.

Motion for poor person relief dismissed as academic.

2 Mo. No. 2015-992

The People &c. ex rel. Eduardo Baez,  
Appellant,

v.

Superintendent, Queensboro Correctional  
Facility, et al.,  
Respondents.

Motion for leave to appeal granted.

2 Mo. No. 2015-1038

Bank of New York, &c.,  
Respondent,

v.

Jean Penalver, et al.,  
Defendants,

Joshua Nesbitt,  
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.

1 Mo. No. 2015-1076

Alfred Barry,  
Appellant,

v.

Pepsi-Cola Bottling Company of New York,  
Inc.,

Respondent,

et al.,

Defendants.

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

2                    Mo. No. 2015-1067  
Ian Clarke,  
    Appellant,  
    v.  
City of New York, et al.,  
    Respondents,  
et al.,  
    Defendant.  
(And a Third-Party Action.)

Motion for leave to appeal denied.

2                    Mo. No. 2015-1056  
Copacabana Realty, LLC,  
    Appellant,  
    v.  
Fireman's Fund Insurance Company,  
    Defendant,  
American Automobile Insurance Company,  
    Respondent.

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

2                    Mo. No. 2015-1087  
Richard (Ricardo) Cordero,  
    Appellant,  
    v.  
Viviana Barreiro-Cordero, et al.,  
    Respondents.

Motion for leave to appeal &c. 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. 2015-1084  
In the Matter of Yasmin Culberson,  
    Respondent,  
    v.  
Janet Fisher,  
    Appellant.  
(And Other Proceedings.)

Motion for leave to appeal denied.

3                    Mo. No. 2015-1030  
In the Matter of Scott Empara,  
                          Appellant,  
                          v.  
New Rochelle School District et al.,  
                          Respondents.  
Workers' Compensation Board,  
                          Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2015-1050  
Gail M. Everett, &c., et al.,  
                          Appellants,  
                          v.  
Eastchester Police Department, et al.,  
                          Respondents,  
et al.,  
                          Defendant.

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

3                    Mo. No. 2015-1074  
In the Matter of Carol A. Frigault,  
                          Petitioner,  
John C. Woudenberg, et al.,  
                          Appellants,  
                          v.  
Town of Richfield Planning Board et al.,  
                          Respondents.

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

4                    Mo. No. 2015-1010  
In the Matter of the Adoption of Hailey.  
  
Taylor G.,  
                          Appellant,  
                          v.  
Darla L.,  
                          Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2015-1077  
Hedley's, Inc.,  
Appellant,  
v.  
Airwaves Global Logistics, LLC,  
Respondent.

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

3 Mo. No. 2015-1082  
In the Matter of Mary Lavere et al.,  
Appellants,  
v.  
Jerry Boone, &c., et al.,  
Respondents.

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

2 Mo. No. 2015-1072  
In the Matter of Jeffrey Martin,  
Respondent,  
v.  
Heather Martin,  
Respondent,  
Danny Wayne Karnes, Jr.,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2015-1078  
In the Matter of David Maxwell,  
Appellant,  
v.  
Mary H. Smith, &c.,  
Respondent.

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

1 Mo. No. 2015-1075  
Miron Properties, LLC,  
Appellant,  
v.  
Bruno W. Eberli, et al.,  
Respondents.

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

1                    Mo. No. 2015-1061  
In the Matter of The Port Authority of New  
York and New Jersey,  
                  Appellant,  
          v.  
The Port Authority Police Detectives  
Endowment Association, Inc.,  
                  Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2015-1057  
In the Matter of Daniel Rappaport, et al.,  
                  Appellants,  
          v.  
Village of Saltaire, et al.,  
                  Respondents.

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

1                    Mo. No. 2015-1029  
Lee Rothman,  
                  Appellant,  
          v.  
McLaughlin & Stern, LLP, et al.,  
                  Respondents.

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

4                    Mo. No. 2015-990  
In the Matter of Alexander S.  
  
Steuben County Department of Social  
Services,  
                  Respondent;  
David S.,  
                  Appellant;  
Alecia P.,  
                  Respondent.

On the Court's own motion, appeal dismissed,  
without costs, upon the ground that no substantial  
constitutional question is directly involved.  
Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Judge Fahey took no part.

4 Mo. No. 2015-1069  
In the Matter of Alexander S.

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

Motion for leave to appeal denied.  
Judge Fahey took no part.

1 Mo. No. 2015-1203  
In the Matter of Eamon Teague, an attorney  
and counselor-at-law.

Departmental Disciplinary Committee for the  
First Judicial Department,  
Respondent,  
Eamon Teague,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2015-1085  
The People &c.,  
Respondent,  
v.  
Gregory Velazquez,  
Appellant.

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

4 Mo. No. 2015-1019  
Elisabeth R. Vural,  
Respondent,  
v.  
Matthew Ozhan Vural,  
Appellant.

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

3                    Mo. No. 2015-1088  
In the Matter of William A. Whipple,  
                          Appellant,  
                          v.  
New York State and Local Retirement System  
et al.,  
                          Respondents.

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

2                    Mo. No. 2015-886  
Daiquan Williams, &c.,  
                          Appellant,  
                          v.  
Jamaica Hospital Medical Center,  
                          Defendant,  
City of New York,  
                          Respondent.

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

                          Mo. No. 2015-1070  
In the Matter of Lawrence J. Worner,  
                          Respondent,  
                          v.  
Susan Gavin,  
                          Appellant.

Motion for leave to appeal denied.  
Motion for a stay dismissed as academic.