

November 23, 2015

CASES

2                    No. 165  
The People &c.,  
    Respondent,  
    v.  
Nugene Ambers,  
    Appellant.

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

4                    No. 211 SSM 17  
Ainsworth M. Bennett, &c.,  
    Appellant,  
    v.  
St. John's Home et al.,  
    Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question not answered as unnecessary. As the issue of the timeliness under CPLR 3212(a) of defendants' summary judgment motion was not preserved in Supreme Court, the Court of Appeals lacks power to review either the Appellate Division's exercise of its discretion to reach the issue, or the issue itself (see Hecker v State of New York, 20 NY3d 1087 [2013]). On the remaining issue presented, the Appellate Division properly held that defendants were entitled to summary judgment.  
Chief Judge Lippman and Judges Pigott, Rivera, Abdus-Salaam and Fahey concur.  
Judge Stein took no part.

2                    No. 162  
The People &c.,  
    Respondent,  
    v.  
Alma Caldavado,  
Also Known as Alma Calderaro,  
    Appellant.

Order reversed and case remitted to Supreme Court, Queens County, for further proceedings in accordance with the memorandum herein.  
Chief Judge Lippman and Judges Pigott, Rivera, Abdus-Salaam, Stein and Fahey concur.

4                    No. 166  
The People &c.,  
    Respondent,  
    v.  
Everett M. Durant,  
    Appellant.

Order affirmed.  
Opinion by Judge Abdus-Salaam.  
Judges Pigott, Rivera and Stein concur.  
Chief Judge Lippman concurs in result in a separate  
concurring opinion.  
Judge Fahey took no part.

2                    No. 175  
The People &c.,  
    Respondent,  
    v.  
Ally Golo,  
    Appellant.

Order reversed and case remitted to Supreme Court,  
Queens County, for further proceedings in  
accordance with the opinion herein.  
Opinion by Judge Abdus-Salaam.  
Chief Judge Lippman and Judges Pigott, Rivera,  
Stein and Fahey concur.

2                    No. 164  
The People &c.,  
    Respondent,  
    v.  
Davon Harris,  
    Appellant.

Order modified by vacating defendant's conviction on  
the charge of petit larceny and dismissing that charge  
in the indictment and, as so modified, affirmed.  
Opinion by Chief Judge Lippman.  
Judges Rivera, Stein and Fahey concur.  
Judge Abdus-Salaam dissents in an opinion in which  
Judge Pigott concurs.

                    No. 157  
The People &c.,  
    Appellant,  
    v.  
Frankie Hatton,  
    Respondent.

Order reversed and judgment of Criminal Court of  
the City of New York, Kings County, reinstated.  
Opinion by Judge Rivera.  
Chief Judge Lippman and Judges Pigott, Abdus-  
Salaam and Fahey concur.  
Judge Stein dissents and votes to affirm in an  
opinion.

1                    No. 177  
In the Matter of Crystal Hawkins,  
    Appellant,  
    v.  
Elizabeth Berlin, &c., et al.,  
    Respondents.

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

2                    No. 174  
The People &c.,  
    Respondent,  
    v.  
Julio Negrón,  
    Appellant.

Order reversed and defendant's motion pursuant to  
CPL 440.10 granted, defendant's judgment of  
conviction and sentence vacated and a new trial  
ordered.  
Opinion by Chief Judge Lippman.  
Judges Rivera, Stein and Fahey concur.  
Judge Pigott dissents in part in an opinion in which  
Judge Abdus-Salaam concurs.

## MOTIONS

2                    Mo. No. 2015-1089  
111-38 Management Corp.,  
    Appellant,  
    v.  
Diego Benitez, &c.,  
    Respondent,  
et al.,  
    Defendant.

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                    Mo. No. 2015-1114  
The People &c. ex rel. Rafael Agosto,  
    Appellant,  
    v.  
Paul Chappius, Jr., &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.  
Motion for poor person relief dismissed as academic.

1                    Mo. No. 2015-1032  
In the Matter of Senator Tony Avella, et al.,  
    Respondents,  
    v.  
City of New York, et al.,  
    Respondents,  
Queens Development Group, LLC, et al.,  
    Appellants.

Motion for leave to appeal granted.

                    Mo. No. 2015-1128  
The People &c.,  
    Respondent,  
    v.  
Jose Aviles,  
    Appellant.

Motion to enlarge the record denied.

2 Mo. No. 2015-1113  
Ramandeep Badwal,  
Respondent,  
v.  
Avtar S. Badwal,  
Appellant.

On the Court's own motion, appeal dismissed,  
without costs, upon the ground that it does not lie.  
Motion for leave to appeal denied.  
Motion for a stay dismissed as academic.

2 Mo. No. 2015-1100  
The People &c.,  
Respondent,  
v.  
Calvin Brown,  
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2015-1099  
In the Matter of Board of Education of the  
Catskill Central School District,  
Appellant,  
v.  
Catskill Teachers Association,  
Respondent,  
et al.,  
Respondent.

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

1 Mo. No. 2015-1129  
CF HY LLC,  
Respondent,  
v.  
Hudson Yards LLC, et al.,  
Defendants,  
Baruch Singer,  
Appellant.

Motion for reargument denied.

3 Mo. No. 2015-1062  
Concord Associates, L.P., et al.,  
Appellants,  
v.  
EPT Concord, LLC, et al.,  
Respondents.

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

3                    Mo. No. 2015-1065  
In the Matter of Jennifer Cronk,  
                         Respondent,  
                         v.  
John B. King, &c., et al.,  
                         Respondents,  
Board of Education of the Valhalla Union  
Free School District,  
                         Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2015-1123  
In the Matter of Eileen D'Amico,  
                         Respondent,  
                         v.  
Christopher Corrado,  
                         Appellant.

Motion for reargument of motion for leave to appeal denied.

1                    Mo. No. 2015-917  
Courtney Dupree,  
                         Plaintiff,  
Rodney Watts,  
                         Appellant,  
                         v.  
Scottsdale Insurance Company,  
                         Respondent.

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

1                    Mo. No. 2015-1098  
Renee Forbes,  
                         Appellant,  
                         v.  
Paul J. Giacomo, Jr., &c., et al.,  
                         Respondents.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that dismissed the appeal from the Supreme Court order denying reargument, dismissed upon the ground that such portion of the order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

2 Mo. No. 2015-1108  
The People &c.,  
Respondent,  
v.  
Shawn Frith,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2015-1105  
The People &c.,  
Respondent,  
v.  
Cesar Game,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2015-1116  
In the Matter of Li Rong Gao, et al.,  
Respondents,  
v.  
Perfect Team Corp.,  
Appellant.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order as dismissed appeals from the October 2010 and February 2012 Supreme Court orders, dismissed upon the ground that appellant is not a party aggrieved (see CPLR 5511); motion for leave to appeal otherwise dismissed upon the ground that the remaining portion of the Appellate Division order does not finally determine the proceeding within the meaning of the Constitution.

1 Mo. No. 2015-1096  
Hanwha Life Insurance, &c.,  
Appellant,  
v.  
UBS AG, et al.,  
Respondents.

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

2                    Mo. No. 2015-1008  
In the Matter of Letitia James,  
&c.,  
    Appellant,  
    v.  
Daniel Donovan, &c.,  
    Respondent.

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In the Matter of Legal Aid Society,  
    Appellant,  
    v.  
Daniel Donovan, &c.,  
    Respondent.

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In the Matter of New York Civil Liberties  
Union,  
    Appellant,  
    v.  
Daniel Donovan, &c.,  
    Respondent.

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In the Matter of NYP Holdings, Inc., &c.,  
    Petitioner,  
    v.  
Daniel Donovan, &c.,  
    Respondent.

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In the Matter of Staten Island Branch of  
National Association for Advancement of  
Colored People, &c., et al.,  
    Appellants,  
    v.  
Daniel Donovan, &c.,  
    Respondent.

Motions for leave to appeal denied.  
Motions for a calendar preference dismissed as  
academic.  
Chief Judge Lippman took no part.

2                    Mo. No. 2015-1081  
In the Matter of Thomas J. (Anonymous).

Selfhelp Community Services, Inc.,  
Appellant;  
New York City Housing Authority,  
Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2015-1054  
Katan Group, LLC, &c.,  
Appellant,  
v.  
CPC Resources, Inc., et al.,  
Respondents,  
et al.,  
Defendants.

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

1                    Mo. No. 2015-1109  
In the Matter of Regina King,  
Appellant,  
v.  
The Department of Education of the City of  
New York, et al.,  
Respondents.

Motion for leave to appeal denied.

1                    Mo. No. 2015-1101  
Metropolitan Plaza WP, LLC, &c., et al.,  
Appellants,  
v.  
Goetz Fitzpatrick, LLP, et al.,  
Respondents.

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

3 Mo. No. 2015-1058  
Mohonk Preserve, Inc.,  
Respondent,  
v.  
Karen Pardini et al.,  
Appellants.

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

Mo. No. 2015-1102  
The People &c.,  
Respondent,  
v.  
Frank L. Morrison,  
Appellant.

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

1 Mo. No. 2015-1104  
Pedro Antonio Rivera,  
Appellant,  
v.  
Earlybird Delivery Systems, LLC, &c.,  
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.  
Motion for poor person relief dismissed as academic.

2 Mo. No. 2015-1130  
In the Matter of Aminata M. S.-L.  
(Anonymous).

Motion for reargument of motion for leave to appeal denied.

Westchester County Department of Social  
Services,  
Respondent;  
Doris L. (Anonymous),  
Appellant.  
(And Another Proceeding.)

2                    Mo. No. 2015-1026  
In the Matter of Village of Southampton,  
                         Respondent,

v.

Village of Southampton Police Benevolent  
Association, Inc.,  
                         Respondent.

Christopher Broich,  
                         Nonparty-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.

3                    Mo. No. 2015-976  
Turtle Island Trust et al.,  
                         Appellants,

v.

County of Clinton et al.,  
                         Respondents,

et al.,  
                         Defendants.

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

1                    Mo. No. 2015-1107  
In the Matter of Isaac Wideman,  
                         Appellant,

v.

New York City Housing Authority,  
                         Respondent.

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