

April 28, 2016

CASES

1 No. 122 SSM 8
Luis Carrion,
 Appellant,
 v.
John Faulkner, &c., et al.,
 Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, and defendants' motion for summary judgment denied. On this record, material questions of fact exist and, therefore, summary judgment for defendants was inappropriate. Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.

2 No. 29
The People &c.,
 Respondent,
 v.
Sean John,
 Appellant.

Order reversed and a new trial ordered. Opinion by Chief Judge DiFiore. Judges Rivera, Stein and Fahey concur. Judge Garcia dissents and votes to affirm in an opinion in which Judges Pigott and Abdus-Salaam concur.

2 No. 120 SSM 5
The People &c.,
 Respondent,
 v.
Anthony Romero,
Also Known as Robert Rosa,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.

1 No. 30
Kamel R. Sadek,
 Respondent,
 v.
Jenkins A. Wesley, et al.,
 Appellants.

Order affirmed, with costs, and certified question answered in the affirmative, in a memorandum. Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.

No. 123

In the Matter of the Consideration of the Suspension of Hon. Alan M. Simon, Justice of the Spring Valley Village Court, Ramapo Town Court, and Acting Justice of the Hillburn Village Court, Rockland County.

On the Court's own motion, it is determined that Honorable Alan M. Simon is suspended, with pay, effective immediately, from the offices of Justice of the Spring Valley Village Court, Rockland County, and the Ramapo Town Court, Rockland County, and the office of Acting Justice of the Hillburn Village Court, Rockland County, pursuant to Judiciary Law § 44(8), pending disposition of his request for review of a determination by the State Commission on Judicial Conduct.

Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.

1 No. 121 SSM 6
In the Matter of Steam Pipe Explosion at 41st Street and Lexington Avenue.

Carrie Tassa,
 Plaintiff,
 v.
Consolidated Edison Inc., et al.,
 Respondents,
Team Industrial Services, Inc.,
 Appellant,
City of New York,
 Defendant.
(And Other Actions.)

Consolidated Edison Inc., et al.,
 Third-Party Respondents,
 v.
Team Industrial Services, Inc.,
 Third-Party Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative. The Appellate Division did not abuse its discretion in granting the motion to compel Team Industrial Services, Inc. to produce its file related to another action. Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.
Chief Judge DiFiore took no part.

1 No. 51
The People &c.,
 Respondent,
 v.
Bobby Wallace,
 Appellant.

Order affirmed, in a memorandum.
Chief Judge DiFiore and Judges Pigott, Rivera,
Abdus-Salaam, Stein, Fahey and Garcia concur.

MOTIONS

2 Mo. No. 2016-357
In the Matter of Estrellita A.,
 Respondent,
 v.
Jennifer L.D.,
 Appellant.

Motion by the Association of the Bar of the City of New York, et al. for leave to appear amici curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed.
Judge Fahey took no part.

2 Mo. No. 2016-351
The People &c.,
 Respondent,
 v.
Ted Antoine,
 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.

2 Mo. No. 2016-219
Barbara Cannariato,
 Appellant,
 v.
Vincent Cannariato, Jr., et al.,
 Respondents,
et al.,
 Defendant.

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

2 SSD 28
Ellen Capers,
 Plaintiff,
 v.
Parkshore Healthcare, LLC, et al.,
 Respondents;
Lola Capers,
 Nonparty-Appellant.

Appeal, insofar as taken from the March 2010 Supreme Court order, transferred without costs, by the Court sua sponte, to the Appellate Division, Second 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]).

Appeal, insofar as taken from the October 2014 Appellate Division order, dismissed without costs, by the Court sua sponte, upon the ground that appellant is not a party aggrieved (see CPLR 5511).

4 Mo. No. 2016-440
The People &c.,
 Respondent,
 v.
James L. Carr,
 Appellant.

Motion for assignment of counsel granted and Evan M. Lumley, Esq., Cornell Mansion, 484 Delaware Avenue, Buffalo, NY 14202 assigned as counsel to the appellant on the appeal herein.
Judge Fahey took no part.

1 Mo. No. 2016-163
The People &c.,
 Respondent,
 v.
Anthony Correnti,
 Appellant.

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

3 Mo. No. 2016-196
The People &c.,
 Respondent,
 v.
Jimmy Davis,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2015-883
The Diversified Group, Inc., et al.,
Appellants,
v.
Marcum & Kliegman LLP, et al.,
Respondents.

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

3 Mo. No. 2016-217
John Feilen et al.,
Appellants,
v.
Juli Christman et al.,
Respondents.
(And a Third-Party Action.)

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

2 Mo. No. 2016-199
In the Matter of Margaret Fishman, deceased.

Eva Deutsch,
Respondent,
v.
Gel Spice Co., et al.,
Appellants.

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

1 Mo. No. 2016-150
Sheila Freed,
Respondent,
v.
Yochai Kapla,
Appellant.

Motion for reargument of motion for leave to appeal &c. denied.
Chief Judge DiFiore and Judge Garcia took no part.

3 Mo. No. 2016-194
In the Matter of Glens Falls City School
District, et al.,
Appellants,
v.
City of Glens Falls, et al.,
Respondents.

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

1 Mo. No. 2016-229
In the Matter of Jonathan M.H., &c.

Reginald H.,
Appellant;
Catholic Guardian Society and Home Bureau,
Respondent.

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

1 Mo. No. 2016-162
Heritage Partners, LLC, et al.,
Appellants,
v.
Stroock & Stroock & Lavan LLP,
Respondent.

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

2 Mo. No. 2016-128
Melissa Hunt,
Appellant,
v.
Michael Hunt,
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2016-197
In the Matter of Hayden II., &c.

Renee II.,
Respondent;
Devan JJ.,
Appellant.

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

2 Mo. No. 2016-213
The People &c.,
Respondent,
v.
Terrance Johnson,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2016-203
In the Matter of Derick L., &c.

Catherine W.,
 Appellant,
Administration for Children's Services,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2016-411
S.L. (Anonymous),
 Appellant,
 v.
J.R. (Anonymous),
 Respondent.

Motion by appellant to strike, deemed a motion to strike the supplemental appendix and related references to the documents contained therein in the briefs of the respondent and the Attorney for the Child, granted and said material deemed stricken. Chief Judge DiFiore took no part.

2 Mo. No. 2016-148
The People &c.,
 Respondent,
 v.
Mike Montes,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2016-227
In the Matter of Nassau County Department
of Social Services, &c.,
 Respondent,
 v.
James Edward Henry,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2016-414
The People &c.,
 Respondent,
 v.
Mark Nonni,
 Appellant.

Motion for assignment of counsel granted and Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, NY 10005 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2016-186
In the Matter of Alena Raymond,
 Respondent,
 v.
Kednel Raymond,
 Appellant.

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

4 Mo. No. 2016-358
In the Matter of Brooke S.B.,
 Respondent,
 v.
Elizabeth A. C.C.,
 Respondent.

Motion by the Association of the Bar of the City of New York, et al. for leave to appear amici curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed.
Judge Fahey took no part.

R. Thomas Rankin, Esq., Attorney for the
Child,
 Appellant.

3 Mo. No. 2016-142
In the Matter of Kester Sandy,
 Appellant,
 v.
D. Venettozzi, &c.,
 Respondent.

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

2 Mo. No. 2016-202
In the Matter of Alexandra Marie Stebelsky,
 Appellant,
 v.
Randy Bryan Schleger,
 Respondent.
(And Another Proceeding.)

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

2 SSD 26
Xiu Jian Sun,
 Appellant,
 v.
Wuhua Jing, &c., et al.,
 Respondents.

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).

2 Mo. No. 2016-200
Lingfei Sun,
 Appellant,
 v.
City of New York, et al.,
 Respondents,
et al.,
 Defendants.

Motion for leave to appeal denied.

2 Mo. No. 2016-195
In the Matter of Reginald Swinton,
 Appellant,
 v.
Dora Schriro, &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.

2 Mo. No. 2016-437
Anthony Turturro, &c., et al.,
 Respondents,
 v.
City of New York,
 Appellant,
Louis Pascarella, et al.,
 Respondents.

Motion by County of Suffolk for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

3 Mo. No. 2016-144
In the Matter of Beverly Weston,
 Appellant.
Commissioner of Labor,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2016-159
In the Matter of Charles Williams,
 Appellant,
 v.
Anthony J. Annucci, &c.,
 Respondent.

Motion for leave to appeal denied.