

February 11, 2016

**CASES**

2                    No. 20  
In the Matter of Exeter Building Corp., et al.,  
    Appellants,  
    v.  
Town of Newburgh, et al.,  
    Respondents.

Order affirmed, with costs, in a memorandum.  
Judges Pigott, Rivera, Abdus-Salaam, Stein and  
Fahey concur.  
Chief Judge DiFiore and Judge Garcia took no part.

1                    No. 3  
Sean R., &c.,  
    Appellant,  
    v.  
BMW of North America, LLC, et al.,  
    Respondents.

Order affirmed, with costs, and certified question  
answered in the affirmative.  
Opinion by Judge Pigott.  
Judges Rivera, Abdus-Salaam, Stein and Fahey  
concur.  
Chief Judge DiFiore and Judge Garcia took no part.

1                    No. 7  
Yousufu Sangaray,  
    Appellant,  
    v.  
West River Associates, LLC,  
    Respondent,  
et al.,  
    Defendants.  
(And a Third-Party Action.)

Order reversed, with costs, and defendant West River  
Associates, LLC's motion insofar as it sought  
summary judgment dismissing the complaint denied.  
Opinion by Judge Pigott.  
Judges Rivera, Abdus-Salaam, Stein and Fahey  
concur.  
Chief Judge DiFiore and Judge Garcia took no part.

3                    No. 4  
Selective Insurance Company of America, et  
al.,  
    Respondents-Appellants,  
    v.  
County of Rensselaer,  
    Appellant-Respondent.

Order affirmed, without costs.  
Opinion by Judge Abdus-Salaam.  
Judges Pigott, Rivera, Stein and Fahey concur.  
Chief Judge DiFiore and Judge Garcia took no part.

2                    No. 16  
The People &c.,  
    Respondent,  
    v.  
Freddie Thompson,  
    Appellant.

Order insofar as appealed from reversed, second violent felony offender adjudication vacated, and case remitted to Supreme Court, Richmond County, for resentencing.  
Opinion by Judge Fahey.  
Judges Pigott, Rivera, Abdus-Salaam and Stein concur.  
Chief Judge DiFiore and Judge Garcia took no part.

1                    No. 19  
The People &c.,  
    Appellant,  
    v.  
Lawrence Watson,  
    Respondent.

Order reversed and case remitted to the Appellate Division, First Department, for consideration of the facts and issues raised but not determined on the appeal to that court.  
Opinion by Judge Stein.  
Judges Pigott, Rivera, Abdus-Salaam and Fahey concur.  
Chief Judge DiFiore and Judge Garcia took no part.

**MOTIONS**

2 Mo. No. 2015-1290  
In the Matter of Tarrence A. (Anonymous),  
Appellant;  
Mid-Hudson Forensic Psychiatric Center,  
Respondent.

Motion for leave to appeal dismissed upon the ground that the issues presented have become moot. Motion for poor person relief dismissed as academic. Judge Garcia took no part.

4 Mo. No. 2015-1307  
In the Matter of Talib Alsaifullah,  
Appellant,  
v.  
Honorable Richard A. Dollinger,  
Respondent.

Motion for leave to appeal dismissed upon the ground that the November 6, 2015 letter sought to be appealed from is not a judgment or an order from which an appeal to this Court may be taken (see CPLR 5512[a]; CPLR 5602[a]). Judge Garcia took no part.

4 Mo. No. 2016-143  
In the Matter of Brooke S.B.,  
Respondent,  
v.  
Elizabeth A. C.C.,  
Respondent.  
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R. Thomas Rankin, Esq., Attorney for the  
Child,  
Appellant.

Motion for poor person relief granted. Judges Fahey and Garcia took no part.

1 Mo. No. 2015-1349  
In the Matter of Barack Darnell B., &c.  
  
Chera B.,  
Appellant,  
Leake and Watts Services, Inc.,  
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. Judge Garcia took no part.

2 Mo. No. 2016-124  
The People &c.,  
Respondent,  
v.  
David Bookman,  
Appellant.

Motion for assignment of counsel granted and Lynn W. L. Fahey, Esq., Appellate Advocates, 111 John Street, 9th Floor, New York, NY 10038 assigned as counsel to the appellant on the appeal herein. Judge Garcia took no part.

2 Mo. No. 2016-63  
The People &c.,  
Respondent,  
v.  
Otis Boone,  
Appellant.

Motion for assignment of counsel granted and Lynn W. L. Fahey, Esq., Appellate Advocates, 111 John Street, 9th Floor, New York, NY 10038 assigned as counsel to the appellant on the appeal herein. Judge Garcia took no part.

1 Mo. No. 2016-80  
The People &c.,  
Respondent,  
v.  
Larry Brown,  
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. Judge Garcia took no part.

2 Mo. No. 2016-109  
The People &c.,  
Respondent,  
v.  
Antonio Bruno,  
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. Judge Garcia took no part.

1 SSD 2  
Ruo Mei Cai,  
Respondent,  
v.  
Victor Fai Lau,  
Appellant.

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

4 Mo. No. 2015-1288  
In the Matter of Courtney M. Campbell,  
Respondent,  
v.  
Bryant M. Knapp,  
Appellant.

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

1 SSD 1  
Jennifer Cangro,  
Appellant,  
v.  
John Z. Marangos,  
Respondent.

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

1 Mo. No. 2016-60  
In the Matter of Tomas Carmona,  
Appellant,  
v.  
New York City Housing Authority,  
Respondent.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Motion for a stay dismissed as academic.  
Judge Garcia took no part.

1 Mo. No. 2015-1299  
Casa Wales Housing Development Fund  
Corp., et al.,  
Appellants,  
v.  
The City of New York,  
Respondent.

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

4 Mo. No. 2015-1351  
The People &c. ex rel. Junior Collins,  
Appellant,  
v.  
New York State Department of Corrections  
and Community Supervision,  
Respondent.

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

1                    Mo. No. 2015-1322  
Samuel Cosentino,  
    Appellant,  
    v.  
Sullivan Papain Block McGrath & Cannavo,  
P.C.,  
    Respondent.

Motion for leave to appeal from the judgment entered upon the Appellate Division order dismissed upon the ground that the judgment is not the final appealable paper from which leave to appeal may be sought (see CPLR 5611).  
Judge Garcia took no part.

3                    Mo. No. 2016-100  
The People &c.,  
    Respondent,  
    v.  
Dayshawn Crooks,  
    Appellant.

Motion for assignment of counsel granted and Matthew C. Hug, Esq., Rensselaer Technology Park, 105 Jordan Road, Troy, NY 12180 assigned as counsel to the appellant on the appeal herein.  
Judge Garcia took no part.

2                    Mo. No. 2015-1355  
Deutsche Bank National Trust Company, &c.,  
    Respondent,  
    v.  
Rachel Abdan,  
    Appellant,  
et al.,  
    Defendants.

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

1                    Mo. No. 2015-1310  
In the Matter of Dina Ehrlich,  
    Respondent,  
    v.  
David Wolf, 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.  
Judge Garcia took no part.

3                    Mo. No. 2016-86  
In the Matter of Entergy Nuclear Operation,  
Inc., et al.,  
                        Respondents,  
                        v.  
New York State Department of State et al.,  
                        Appellants.

Motion by Riverkeeper, Inc., 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. Three copies of the brief must be served and an original and nine copies filed within seven days. Judge Garcia took no part.

3                    Mo. No. 2015-1336  
In the Matter of Neville Francis,  
                        Appellant,  
                        v.  
Jewelry Box Corporation of America et al.,  
                        Respondents,  
Special Fund for Reopened Cases,  
                        Respondent.  
Workers' Compensation Board,  
                        Respondent.

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

3                    SSD 3  
In the Matter of the Estate of Deborah A.  
Grochocki, Deceased.  
  
John C. Greenleaf,  
                        Appellant,  
                        v.  
New York State Office of Victim Services,  
                        Respondent,  
et al.,  
                        Respondents.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the proceeding within the meaning of the Constitution.  
Judge Garcia took no part.

1 Mo. No. 2015-1333  
In the Matter of Davion H., &c.

Linda R.,  
Appellant,  
Martin H.,  
Respondent,  
Edwin Gould Services for Children and  
Families,  
Respondent.

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

1 Mo. No. 2015-1354  
In the Matter of Davion H., &c.

Linda R.,  
Respondent,  
Martin H.,  
Appellant,  
Edwin Gould Services for Children and  
Families,  
Respondent.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Judge Garcia took no part.

2 SSD 11  
The People &c.,  
Appellant,  
v.  
Kenyatta James, Also Known as Nate  
Beander,  
Respondent.

Appeal dismissed, by the Court sua sponte, 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]).  
Judge Garcia took no part.

1 Mo. No. 2015-1303  
In the Matter of Brianna Money J. et al., &c.

LaQueenia S., &c.,  
Appellant.  
SCO Family of Services,  
Respondent.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Judge Garcia took no part.

2 Mo. No. 2015-1311  
Executor of New York Estate of Celia Kates,  
Philip Barash,  
Appellant,  
et al.,  
Plaintiff,  
v.  
James G. Pressly, &c., 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.  
Judge Garcia took no part.

1 Mo. No. 2015-1316  
The People &c.,  
Respondent,  
v.  
Inderjeet Lalji,  
Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Judge Garcia took no part.

2 Mo. No. 2015-1338  
Lynn Lew,  
Appellant,  
v.  
Manhasset Public Library, et al.,  
Respondents.

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

2 Mo. No. 2015-1331  
In the Matter of State of New York,  
Respondent,  
v.  
Robert M. (Anonymous),  
Appellant.

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

2 Mo. No. 2015-1329  
The People &c.,  
Respondent,  
v.  
Frantzdy Menelas,  
Appellant.

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

1                    Mo. No. 2015-1016  
Linda P. Nash,  
    Respondent,  
    v.  
The Port Authority of New York and New  
Jersey,  
    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 (see Arthur Karger, Powers of the New York Court of Appeals § 4:15, at 93-94 [3d ed rev 2005]).  
Judges Abdus-Salaam and Garcia took no part.

2                    Mo. No. 2015-1324  
In the Matter of Stacey O. (Anonymous).  
  
Westchester County Department of Social  
Services,  
    Respondent;  
Bernadette F. (Anonymous),  
    Respondent.  
Attorney for the Child,  
    Appellant.  
(And Another Proceeding.)

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Judge Garcia took no part.

1                    Mo. No. 2016-114  
The People &c.,  
    Respondent,  
    v.  
Michael Pondexter,  
    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.  
Judge Garcia took no part.

2                    Mo. No. 2016-73  
The People &c.,  
    Respondent,  
    v.  
Ricardo Ricketts,  
    Appellant.

Motion for assignment of counsel granted and Lynn W. L. Fahey, Esq., Appellate Advocates, 111 John Street, 9th Floor, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.  
Judge Garcia took no part.

1 Mo. No. 2015-1348  
In the Matter of Alijah S. et al., &c.

Daniel S.,  
Appellant,  
Administration for Children's Services,  
Respondent.

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

1 Mo. No. 2015-1379  
In the Matter of Jaynie S.,  
Respondent,

v.  
Gaetano D.,  
Appellant.

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

2 Mo. No. 2015-1323  
The People &c.,  
Respondent,

v.  
Kyle-Dwen Sheppard,  
Appellant.

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

2 Mo. No. 2015-1337  
Carlayne Sims,  
Appellant,

v.  
City of New York,  
Respondent.

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

4 Mo. No. 2016-91  
The People &c.,  
Respondent,

v.  
Shawn J. Sivertson,  
Appellant.

Motion for assignment of counsel granted and David  
C. Schopp, Esq., The Legal Aid Bureau of Buffalo,  
Inc., 237 Main Street, Suite 1602, Buffalo, NY  
14203 assigned as counsel to the appellant on the  
appeal herein.  
Judge Garcia took no part.

1 Mo. No. 2016-65  
The People &c.,  
Respondent,  
v.  
Yusuf Sparks,  
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.  
Judge Garcia took no part.

1 Mo. No. 2015-1291  
In the Matter of Gerard V. Sunnen, M.D.,  
Appellant,  
v.  
New York State Department of Health,  
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.  
Judge Garcia took no part.

3 Mo. No. 2015-1319  
In the Matter of Injah Tafari,  
Appellant,  
v.  
Donald Selsky, &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.  
Judges Stein and Garcia took no part.

3 Mo. No. 2015-1320  
In the Matter of Injah Unique Tafari, &c.,  
Appellant,  
v.  
Tina M. Stanford, &c., et al.,  
Respondents.

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

2 Mo. No. 2015-1314  
In the Matter of John Tarantino,  
Appellant,  
v.  
MTA New York City Transit Authority,  
Respondent.

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

2 Mo. No. 2015-1315  
In the Matter of Thomas J. Triola,  
Appellant,  
v.  
Richard F. Daines et al.,  
Respondents.

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

2 Mo. No. 2015-1330  
In the Matter of Davin V. (Anonymous).  
  
Administration for Children's Services,  
Respondent;  
Davida V.V. (Anonymous),  
Appellant.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Judge Garcia took no part.

Mo. No. 2016-81  
In the Matter of Viking Pump, Inc. and  
Warren Pumps, LLC,  
Insurance Appeals.  
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Viking Pump, Inc. and Warren Pumps, LLC,  
Appellants,  
TIG Insurance Company, et al.,  
Respondents.

Motion by New York State Electric and Gas Corporation for leave to appear amicus curiae on consideration of the certified questions 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.  
Judge Garcia took no part.

Mo. No. 2016-83  
In the Matter of Viking Pump, Inc. and  
Warren Pumps, LLC,  
Insurance Appeals.  
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Viking Pump, Inc. and Warren Pumps, LLC,  
Appellants,  
TIG Insurance Company, et al.,  
Respondents.

Motion by United Policyholders, et al. for leave to appear amici curiae on consideration of the certified questions herein granted only to the extent that the proposed brief is accepted as filed.  
Judge Garcia took no part.

1                    Mo. No. 2016-104  
The People &c.,  
    Respondent,  
    v.  
Gregory Vining,  
    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.  
Judge Garcia took no part.

3                    Mo. No. 2015-1325  
In the Matter of Yoga Vida NYC, Inc.,  
    Appellant.  
Commissioner of Labor,  
    Respondent.

Motion by Legal Aid Society 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.  
Judges Stein and Garcia took no part.

2                    Mo. No. 2015-1340  
Michael Zwarycz,  
    Respondent,  
    v.  
Marnia Construction, Inc., et al.,  
    Respondents,  
Joan Harrigan, &c.,  
    Appellant.

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