

February 23, 2016

**CASES**

1                    No. 15  
Aetna Health Plans, &c.,  
    Appellant,  
    v.  
Hanover Insurance Company,  
    Respondent.

Reargument ordered and case set down for argument during a future session of this Court.  
Judges Pigott, Rivera, Abdus-Salaam, Stein and Fahey concur.  
Chief Judge DiFiore and Judge Garcia took no part.

2                    No. 12  
The People &c.,  
    Respondent,  
    v.  
Raymond Leach,  
    Appellant.

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

2                    No. 22  
The People &c.,  
    Respondent,  
    v.  
Oscar Sanders,  
    Appellant.

Order reversed, defendant's motion insofar as it sought to suppress the physical evidence granted, judgment vacated and case remitted to Supreme Court, Queens County, for further proceedings in accordance with the opinion herein.  
Opinion by Judge Fahey.  
Judges Pigott, Rivera, Abdus-Salaam and Stein concur.  
Chief Judge DiFiore and Judge Garcia took no part.

2                    No. 21  
Maria De Lourdes Torres,  
    Appellant,  
    v.  
Police Officer Jones, et al.,  
    Defendants,  
City of New York,  
    Respondent.  
(And Another Action.)

Order modified, without costs, in accordance with the  
opinion herein and, as so modified, affirmed.  
Opinion by Judge Abdus-Salaam.  
Judges Pigott, Rivera, Stein and Fahey concur.  
Chief Judge DiFiore and Judge Garcia took no part.

## MOTIONS

4                    SSD 9  
In the Matter of Adirondack Health-Uihlein  
Living Center, et al.,  
                  Appellants,  
          v.  
Nirav R. Shah, M.D., &c., et al.,  
                  Respondents.

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

2                    Mo. No. 2016-122  
Agencies for Children's Therapy Services,  
Inc.,  
                  Appellant,  
          v.  
New York State Department of Health, et al.,  
                  Respondents.

On the Court's own motion, appeal dismissed,  
without costs, upon the ground that no substantial  
constitutional question is directly involved.  
Motion for a stay dismissed as academic.

4                    Mo. No. 2015-836  
In the Matter of Christina A. Agola, a  
Suspended Attorney,  
                  Appellant.  
Grievance Committee of the Seventh Judicial  
District,  
                  Respondent.

Motion for leave to appeal denied.  
Judges Rivera and Fahey took no part.

1                    Mo. No. 2015-1218  
In the Matter of Asian American Legal  
Defense and Education Fund, et al.,  
                  Appellants,  
          v.  
New York City Police Department, et al.,  
                  Respondents.

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

1                    Mo. No. 2015-1306  
In the Matter of Asian American Legal  
Defense and Education Fund, et al.,  
                  Appellants,  
          v.  
New York City Police Department, et al.,  
                  Respondents.

Motion by Muslim Community Network et al. for  
leave to appear amici curiae on the motion for leave  
to appeal herein granted and the brief is accepted as  
filed.  
Judge Fahey took no part.

2                    Mo. No. 2016-35  
In the Matter of Hilary Best,  
                  Appellant,  
          v.  
Barry A. Schwartz,  
                  Respondent.

Motion to vacate this Court's November 5, 2015  
dismissal order granted.  
On the Court's own motion, appeal dismissed,  
without costs, upon the ground that no substantial  
constitutional question is directly involved.

3                    SSD 5  
In the Matter of Amin Booker,  
                  Appellant,  
          v.  
Robert Ercole, &c., 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 Stein took no part.

2                    Mo. No. 2015-911  
In the Matter of Joel R. Brandes, a disbarred  
attorney,  
                  Appellant.

Motion for leave to appeal granted.  
Judges Rivera and Stein took no part.

4                    Mo. No. 2016-33  
In the Matter of James E. Budd,  
                  Appellant,  
          v.  
State University of New York at Geneseo,  
                  Respondent.

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

2 Mo. No. 2016-31  
In the Matter of Eljihh C. (Anonymous),  
Appellant.

Motion for leave to appeal denied.

3 SSD 14  
The People &c., ex rel. Shalieq Carter,  
Appellant,  
v.  
Brandon J. Smith, &c.,  
Respondent.

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

3 Mo. No. 2016-7  
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 reargument of motion for leave to appeal  
denied.  
Chief Judge DiFiore and Judge Garcia took no part.

1 Mo. No. 2015-1292  
In the Matter of Washington Davis,  
Appellant,  
v.  
Hon. Kenneth L. Thompson, et al.,  
Respondents.

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

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In the Matter of Washington Davis,  
Appellant,  
et al.,  
Petitioner,  
v.  
Hon. Julia L. Rodriguez, et al.,  
Respondents.

2 Mo. No. 2015-1296  
Joetta Dawson, &c.,  
Appellant,  
v.  
Ronald Schoenberg,  
Respondent.

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

3 Mo. No. 2015-811  
In the Matter of Amil Dinsio,  
Appellant,  
v.  
Supreme Court, Appellate Division, Third  
Judicial Department,  
Respondent.  
(And Two Other Proceedings.)

Motion for reargument of motion for leave to appeal denied.  
Motion for other relief dismissed as academic.  
Judges Stein and Fahey took no part.

1 Mo. No. 2015-1321  
DLJ Mortgage Capital, Inc.,  
Respondent,  
Thomas Hoey, et al.,  
Intervenors-Plaintiffs,  
v.  
Thomas Kontogiannis, et al.,  
Defendants,  
Jeffrey Siegel, et al.,  
Appellants.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that affirmed the October 2014 Supreme Court order, denied; 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.  
Judge Garcia took no part.

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Massoud & Pashkoff LLP,  
Nonparty-Appellant.

1 Mo. No. 2016-40  
The People &c.,  
Respondent,  
v.  
Ronald Dorsey,  
Appellant.

Motion for leave to appeal denied.

4                    Mo. No. 2016-15  
In the Matter of Bernabe Encarnacion,  
                          Appellant,  
                          v.  
Susan M. Dwyer, &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.

3                    Mo. No. 2016-16  
Bernabe Encarnacion,  
                          Appellant,  
                          v.  
State of New York,  
                          Respondent.

Motion for leave to appeal denied.

                          SSD 13  
In the Matter of Thomas Glass,  
                          Appellant,  
                          v.  
New York State Department of Motor  
Vehicles Appeals Board,  
                          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 (see NY Const, art VI, §§ 3[b][2], 5[b]; CPLR 5601[b][2]).

3                    Mo. No. 2016-12  
In the Matter of David L. Harold,  
                          Respondent.  
Leonard's Transportation,  
                          Appellant.  
Commissioner of Labor,  
                          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. 2016-198  
The People &c.,  
Respondent,  
v.  
Andre Harrison,  
Appellant.

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The People &c.,  
Respondent,  
v.  
Marino Serrano,  
Appellant.

2 Mo. No. 2016-34  
The People &c.,  
Respondent,  
v.  
Cecil James,  
Appellant.

2 Mo. No. 2015-1394  
In the Matter of Diahanna Keyes,  
Appellant,  
v.  
Kayle Watson,  
Respondent.

2 Mo. No. 2016-76  
In the Matter of Stanley Kocot,  
Appellant,  
v.  
Stephen L. Greller, &c., et al.,  
Respondents.

Motion by Immigrant Defense Project for leave to file a brief amicus curiae on the appeals herein granted and 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.

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

Motion for leave to appeal denied.

Motion for leave to appeal denied.

2                    Mo. No. 2016-27  
Genoveffa Kohulka,  
    Appellant,  
    v.  
City of New York,  
    Respondent.

Motion for leave to appeal denied.

3                    SSD 7  
In the Matter of Leon R. Koziol, a Suspended  
Attorney.  
  
Committee on Professional Standards,  
    Respondent;  
Leon R. Koziol,  
    Appellant.

Appeal, insofar as taken from that portion of the Appellate Division order denying the part of the motion seeking to vacate prior orders of suspension, dismissed without costs, by the Court sua sponte, upon the ground that such portion of the order does not finally determine the proceeding 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.  
Judges Stein and Fahey took no part.

4                    Mo. No. 2015-1259  
In the Matter of Hector LaPorte,  
    Appellant,  
    v.  
Anthony Annucci, &c.,  
    Respondent.

Motion for leave to appeal denied.

4                    Mo. No. 2016-152  
The People &c.,  
    Appellant,  
    v.  
Terrance L. Mack,  
    Respondent.

Motion to file a supplemental brief granted and 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.

1                    Mo. No. 2015-1398  
Alan Metz,  
    Appellant,  
    v.  
Davis Polk & Wardwell,  
    Respondent.

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

                    Mo. No. 2016-108  
The Ministers and Missionaries Benefit Board,  
    Interpleader Plaintiff,  
    v.  
Leon Snow et al.,  
    Appellants,  
    v.  
The Estate of Clark Flesher, et al.,  
    Respondents.

Motion for reargument denied.  
Chief Judge DiFiore and Judge Garcia took no part.

3                    Mo. No. 2016-43  
Mohonk Preserve, Inc.,  
    Respondent,  
    v.  
Karen Pardini et al.,  
    Appellants.

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

3                    SSD 4  
The People &c. ex rel. Gary H. Moore,  
    Appellant,  
    v.  
Superintendent of Coxsackie Correctional Facility,  
    Respondent.

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

3 Mo. No. 2016-26  
In the Matter of Megan L. Morris,  
Respondent.  
Source Interlink Media, LLC,  
Appellant.  
Commissioner of Labor,  
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. 2015-1390  
James C. Morrissey et al.,  
Appellants,  
v.  
Gary D. Haskell,  
Respondent.

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

2 Mo. No. 2016-53  
Juvondi Pender,  
Appellant,  
v.  
Morris Duffy Alonso Faley, LLP,  
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. 2016-36  
Thomas Perkins, et al.,  
Respondents,  
v.  
Philip Barry,  
Appellant,  
et al.,  
Defendants.

Motion, insofar as it seeks leave to appeal from that portion of the December 2015 Appellate Division order which dismissed appellant's appeal, denied; motion for leave to appeal otherwise dismissed upon the ground that the remaining portions of the orders sought to be appealed from do not finally determine the action within the meaning of the Constitution.

3 Mo. No. 2016-39  
In the Matter of Brian Pickering,  
Appellant,  
v.  
Car Win Construction, Inc., et al.,  
Respondents.  
Workers' Compensation Board,  
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 (see CPLR 5601).  
Motion for leave to appeal denied.

3 Mo. No. 2016-3  
In the Matter of Rafael Rivera,  
Appellant,  
v.  
Commissioner of Labor,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2015-1391  
The People &c.,  
Respondent,  
v.  
Oscar Rosales,  
Appellant.

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

4 Mo. No. 2016-1  
In the Matter of Alexander S.,  
  
Steuben County Department of Social  
Services,  
Respondent,  
v.  
David S. and Alecia P.,  
Appellants.

Motions for reargument denied.  
Judge Fahey took no part.

4                    Mo. No. 2015-1345  
In the Matter of Joyce S.,  
    Appellant,  
    v.  
Kevin M. et al.,  
    Respondents.

Motion for leave to appeal denied.

4                    Mo. No. 2016-13  
In the Matter of Nadya S.

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

Erie County Department of Social Services,  
    Respondent;  
Brauna S.,  
    Appellant.

3                    SSD 8  
Robert L. Schulz, et al.,  
    Appellants,  
et al.,  
    Plaintiffs,  
    v.  
State of New York Executive, et al.,  
    Respondents.

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

3                    SSD 12  
Robert L. Schulz,  
    Appellant,  
et al.,  
    Plaintiffs,  
    v.  
Andrew M. Cuomo et al.,  
    Respondents,  
et al.,  
    Defendants.

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

1                    Mo. No. 2016-37  
The People &c.,  
    Respondent,  
    v.  
Eddie Shellman,  
    Appellant.

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

2                    Mo. No. 2016-87  
In the Matter of Matthew R. Smith,  
    Appellant,  
    v.  
William J. Condon, &c., et al.,  
    Respondents.

Motion for reargument &c. denied.  
Chief Judge DiFiore and Judge Garcia took no part.

1                    Mo. No. 2016-8  
Barbara Stewart,  
    Appellant,  
    v.  
William Stewart,  
    Respondent.

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

1                    Mo. No. 2015-1263  
Ian Stokoe, et al.,  
    Respondents,  
    v.  
E-Lionheart, LLC, et al.,  
    Appellants.

Motion, insofar as made by defendant Edward  
Bronson, denied; motion for leave to appeal  
otherwise dismissed as untimely (see CPLR  
5513[b]).

1                    Mo. No. 2016-121  
Ian Stokoe, et al.,  
    Respondents,  
    v.  
E-Lionheart, LLC, et al.,  
    Appellants.

Motion for leave to appeal from the Supreme Court  
judgment entered subsequent to 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).

4 Mo. No. 2015-1242  
Town of Amherst,  
Appellant,  
v.  
Granite State Insurance Company, Inc.,  
Respondent.

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

1 SSD 6  
United States Fidelity & Guaranty Company,  
et al.,  
Respondents,  
v.  
American Re-Insurance Company, et al.,  
Appellants,  
et al.,  
Defendants.

Appeal dismissed without prejudice and without costs, by the Court sua sponte, upon the ground that the Court declines to pass upon the matter raised by appellants at this time (see Matter of Lippman v Commissioners of Election of County of Nassau, 15 NY2d 964, 966 [1965]).  
Judge Abdus-Salaam took no part.

4 Mo. No. 2016-4  
In the Matter of the Estate of Stanley Wagner,  
Deceased.  
Jaan Aarismaa, IV,  
Appellant,  
John L. Wagner, as Executor of Stanley A.  
Wagner, Deceased,  
Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that no substantial constitutional question is directly involved.  
Motion for miscellaneous relief denied.

1 Mo. No. 2015-1280  
Abuwi M. Waheed,  
Appellant,  
v.  
City of New York, 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 action within the meaning of the Constitution.  
Motion for poor person relief dismissed as academic.  
Judge Abdus-Salaam took no part.

3                    Mo. No. 2016-52  
In the Matter of Sean White,  
                  Appellant,  
                  v.  
Albert Prack, &c.,  
                  Respondent.

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

1                    Mo. No. 2016-29  
The People &c.,  
                  Respondent,  
                  v.  
Uriah Williams,  
                  Appellant.

Motion for leave to appeal denied.