

June 23, 2016

**CASES**

1                    No. 50  
230 Park Avenue Holdco, LLC,  
    Appellant,  
    v.  
Kurzman Karelsen & Frank, LLP, et al.,  
    Respondents.

Order modified, without costs, by granting plaintiff's motion for summary judgment dismissing the third affirmative defense and, as so modified, affirmed and certified question answered in the negative, in a memorandum.  
Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.  
Chief Judge DiFiore took no part.

3                    No. 116  
The People &c.,  
    Respondent,  
    v.  
Dayshawn Crooks,  
    Appellant.

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

2                    No. 165 SSM 11  
The People &c.,  
    Appellant,  
    v.  
Carlos Palencia,  
    Respondent.

On review of submissions pursuant to section 500.11 of the Rules (22 NYCRR 500.11), appeal dismissed 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]).  
Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.

No. 104

The People &c.,  
Respondent,  
v.  
Norman E. Ramsey,  
Appellant.

Order affirmed.

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

No. 103

The People &c.,  
Appellant,  
v.  
Glenn S. Smith,  
Respondent.

Order reversed, and case remitted to the Appellate  
Term, Ninth and Tenth Judicial Districts, for further  
proceedings in accordance with the opinion herein.  
Opinion by Chief Judge DiFiore.  
Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey  
and Garcia concur.

4 No. 114

In the Matter of Tonawanda Seneca Nation,  
Appellant,  
v.  
Hon. Robert C. Noonan, &c., et al.,  
Respondents.

Order affirmed, with costs.

Opinion by Judge Garcia.  
Chief Judge DiFiore and Judges Pigott, Rivera,  
Abdus-Salaam and Stein concur.  
Judge Fahey took no part.

## MOTIONS

1                    Mo. No. 2016-604  
In the Matter of the 60 East 12th Street  
Tenants' Association, et al.,  
                  Appellants,  
                  v.  
New York State Division of Housing and  
Community Renewal, et al.,  
                  Respondents.  
(And Another Proceeding).

Motion by Urban Justice Center for leave to file a  
brief amicus curiae on the appeal herein granted and  
the proposed brief is accepted as filed. One copy of  
the brief must be served and an original and two  
copies filed within seven days.

2                    Mo. No. 2016-502  
In the Matter of Kevin Banks,  
                  Appellant,  
                  v.  
John B. Rhea, &c.,  
                  Respondent.

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

1                    Mo. No. 2016-564  
In the Matter of Baby Boy B., &c.  
  
Eddie M.,  
                  Appellant,  
The Children's Aid Society et al.,  
                  Respondents.

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

1                    Mo. No. 2016-399  
The People &c.,  
                  Respondent,  
                  v.  
Robert Bonds,  
                  Appellant.

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

1                    Mo. No. 2016-588  
The People &c.,  
    Appellant,  
    v.  
Jeffrey Bryant,  
    Respondent.

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 respondent on the appeal herein.

4                    SSD 40  
In the Matter of Bohdan S. Chomyn,  
    Appellant,  
    v.  
M. William Boller, &c., et al.,  
    Respondents.

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

4                    SSD 36  
Faye M. Eaton,  
    Appellant,  
et al.,  
    Plaintiffs,  
    v.  
Sylvia Hungerford, &c., et al.,  
    Respondents.

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

1                    Mo. No. 2016-386  
Endurance American Specialty Insurance  
Company, et al.,  
    Respondents,  
    v.  
Utica First Insurance Company,  
    Appellant,  
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. 2016-616  
In the Matter of Entergy Nuclear Operation,  
Inc., et al.,  
                  Respondents,  
          v.  
New York State Department of State et al.,  
                  Appellants.

Motion by Nuclear Energy Institute for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served and an original and nine copies filed within seven days.

1                    Mo. No. 2016-635  
Estee Lauder Inc.,  
                  Respondent,  
          v.  
OneBeacon Insurance Group, LLC,  
&c., et al.,  
                  Appellants.

Motion by Century Indemnity Company for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. One copy of the brief must be served and an original and two copies filed within seven days.

2                    Mo. No. 2016-484  
In the Matter of Fahari Academy Charter  
School,  
                  Appellant,  
          v.  
Board of Education of City School District of  
City of New York &c. et al.,  
                  Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.  
Motion for a stay dismissed as academic.

3                    Mo. No. 2016-582  
The People &c.,  
                  Respondent,  
          v.  
Alain Forget,  
                  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. 2016-600  
The People &c.,  
Respondent,  
v.  
Eugene Francis,  
Appellant.

Motion to vacate this Court's April 25, 2016  
dismissal order granted.  
Motion for assignment of counsel granted and  
Andrew W. Sayegh, Esq., 95 Church Street, Suite B,  
White Plains, NY 10601 assigned as counsel to the  
appellant on the appeal herein.  
Chief Judge DiFiore took no part.

2 Mo. No. 2016-275  
In the Matter of Victoria J. Fusco,  
Respondent,  
v.  
Anthony S. Fusco,  
Appellant.

Motion for leave to appeal denied.

1 SSD 38  
In the Matter of Henry Phipps Plaza South  
Associates,  
Appellant,  
v.  
Judith Quijano, et al.,  
Respondents.

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

4 Mo. No. 2016-506  
In the Matter of Nichole M. Hirschman,  
Appellant,  
v.  
Patrick R. McFadden,  
Respondent.

Motion for leave to appeal denied.

2 SSD 37  
In the Matter of Janine Johnson,  
Appellant,  
v.  
County of Orange, et al.,  
Respondents.

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

4 Mo. No. 2016-498  
Betty L. Kimmel,  
Respondent,  
v.  
State of New York et al.,  
Appellants.

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Emmelyn Logan-Baldwin,  
Interested Party-Respondent.

SSD 41  
The People &c.,  
Respondent,  
v.  
Frank Dinehart Langdon,  
Appellant,  
Grant Dinehart Langdon,  
Non-Party Appellant.

2 Mo. No. 2016-548  
In the Matter of Tyrone M. (Anonymous),  
Appellant.

1 Mo. No. 2016-495  
The People &c. ex rel. Frank Monte,  
Appellant,  
v.  
Warden Maxsolaine Mingo, et al.,  
Respondents.

Motion by Empire Justice Center 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. Judges Pigott and Fahey took no part.

Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that this Court does not have jurisdiction to entertain it (NY Const, art VI, § 3[b]; CPLR 5601; CPL 450.90).  
Judge Pigott took no part.

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

On the Court's own motion, appeal transferred, without costs, to the Appellate Division, First 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]).  
Motion for poor person relief &c. dismissed as academic.

1                    Mo. No. 2016-320  
Lew Nussberg, &c.,  
    Respondent,  
    v.  
Gary Tatintsian, &c., et al.,  
    Appellants,  
et al.,  
    Defendant.

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

2                    Mo. No. 2016-558  
In the Matter of Marchella P. (Anonymous).  
  
Administration for Children's Services,  
    Respondent;  
Loretta B.-B.,  
    Respondent;  
Tyrone P., Jr.,  
    Appellant.  
(And Two Other Proceedings.)

Motion for leave to appeal denied.

2                    Mo. No. 2016-509  
Manjula Patel,  
    Respondent,  
    v.  
Vinod Patel,  
    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.  
Motion for poor person relief dismissed as academic.

1                    Mo. No. 2016-529  
In the Matter of Bawasilya Nyairah R., &c.  
  
Maria Isabel R., &c.,  
    Appellant,  
Lutheran Social Services of New York,  
    Respondent.

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

3                   SSD 39  
Robert L. Schulz,  
    Appellant,  
    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.

3                   Mo. No. 2016-507  
Robert L. Schulz,  
    Appellant,  
    v.  
Sheldon Silver, &c.,  
    Respondent.

Motion for reconsideration of this Court's March 31, 2016 dismissal order denied.  
Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that dismissed the appeal from the October 2014 Supreme Court order, 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.  
Chief Judge DiFiore took no part.

2                   Mo. No. 2016-494  
The People &c. ex rel. Carl Smith,  
    Appellant,  
    v.  
Kenneth Thompson, &c.,  
    Respondent.

Motion for leave to appeal denied.

1                   Mo. No. 2016-590  
Stonehill Capital Management, LLC, et al.,  
    Appellants,  
    v.  
Bank of the West,  
    Respondent,  
et al.,  
    Defendant.

Motion by Loan Syndications and Trading Association 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.

4                    Mo. No. 2016-361  
In the Matter of Antwan Thompson,  
                          Appellant,  
                          v.  
Anthony J. Annucci, &c.,  
                          Respondent.

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