

November 17, 2016

CASES

4 No. 175
The People &c.,
 Respondent,
 v.
Timothy Brewer,
 Appellant.

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

2 No. 222 SSM 31
The People &c.,
 Respondent,
 v.
Eugene Francis,
 Appellant.

On review of submissions pursuant to section 500.11
of the Rules, order affirmed, in a memorandum.
Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey
and Garcia concur.
Chief Judge DiFiore took no part.

4 No. 170
The People &c.,
 Respondent,
 v.
John Gayden,
 Appellant.

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

4 No. 224 SSM 36
The People &c.,
 Respondent,
 v.
Clinton Johnson,
 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. 174
George Newman, et al.,
 Appellants,
 v.
RCPI Landmark Properties, LLC, et al.,
 Respondents.

Order reversed, with costs, and defendants' motion for summary judgment dismissing the complaint denied, in a memorandum.
Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.

1 No. 223 SSM 34
Miriam Levy Oates, as Administratrix of the
Estate of Rachel Levy, Deceased, et al.,
 Respondents,
 v.
New York City Transit Authority,
 Appellant,
et al.,
 Defendants.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs. The Appellate Division correctly determined that legally sufficient evidence supported the jury's findings of negligence and entitlement to damages for decedent's conscious pain and suffering.
Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.

2 No. 183
In the Matter of Ganiyu Adebola Odunbaku,
 Respondent,
 v.
Diana Odunbaku,
 Appellant.
(And Another Proceeding.)

Order, insofar as appealed from, reversed, without costs, and matters remitted to Family Court, Richmond County, for further proceedings in accordance with the opinion herein.
Opinion by Judge Fahey.
Judges Pigott, Rivera, Abdus-Salaam, Stein and Garcia concur.
Chief Judge DiFiore took no part.

MOTIONS

1 Mo. No. 2016-1057
American Economy Insurance Company, et
al.,
 Respondents,
 v.
State of New York, et al.,
 Appellants.

Motion by American Insurance Association et al. for
leave to file a brief amici curiae on the appeal herein
granted and the proposed brief is accepted as filed.

4 Mo. No. 2016-686
In the Matter of Timothy B., et al., &c.

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

Livingston County Department of Social
Services,
 Respondent;
Paul K.,
 Appellant;
et al.,
 Respondent.

1 Mo. No. 2016-1071
The People &c.,
 Respondent,
 v.
Nicholas Brooks,
 Appellant.

Motion for poor person relief, for the purpose
requested, denied.

2 Mo. No. 2016-912
In the Matter of Samima I.A.C.

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

Administration for Children's Services,
 Respondent;
Idzumi S.S.,
 Appellant.

1 SSD 61
In the Matter of Ibrahim Donmez,
 Appellant,
 v.
New York City Department of Consumer
Affairs, et al.,
 Respondents.
(New York County Index No. 401769/13)

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

1 SSD 62
In the Matter of Ibrahim Donmez,
 Appellant,
 v.
New York City Department of Consumer
Affairs, et al.,
 Respondents.
(New York County Index No. 401875/13)

Appeal, insofar as taken from the Appellate Division order confirming the determination of respondent New York City Department of Consumer Affairs, denying the petition, and dismissing the proceeding, dismissed, without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved; appeal, insofar as taken from the Appellate Division order resolving the motion to enlarge the record, dismissed, without costs, by the Court sua sponte, upon the ground that the order does not finally determine the proceeding within the meaning of the Constitution.

1 Mo. No. 2016-719
David Friedman, &c.,
 Appellant,
 v.
The Hebrew Home for the Aged at Riverdale,
 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 (see Kushlin v Bialer, 26 NY2d 748 [1970]).

1 Mo. No. 2016-753
David Friedman, &c.,
Appellant,
v.
The Hebrew Home for the Aged at Riverdale,
Respondent.

Motion by New Yorkers for Patient & Family
Empowerment, et al. for leave to appear amici curiae
on the motion for leave to appeal herein granted and
the brief is accepted as filed.

1 Mo. No. 2016-754
David Friedman, &c.,
Appellant,
v.
The Hebrew Home for the Aged at Riverdale,
Respondent.

Motion by New York State Trial Lawyers
Association for leave to appear amicus curiae on the
motion for leave to appeal herein granted and the
brief is accepted as filed.

2 Mo. No. 2016-1024
In the Matter of Frank G. (Anonymous),
Appellant,
v.
Renee P.-F. (Anonymous) et al.,
Respondents.
(And Two Other Proceedings.)

Motion for leave to appeal dismissed upon the
ground that the order sought to be appealed from
does not finally determine the proceedings within the
meaning of the Constitution.
Motion for a stay dismissed as academic.

2 Mo. No. 2016-870
The People &c. ex rel. Kenneth Grafton,
Appellant,
v.
Michael Sposato, &c.,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2016-825
In the Matter of Grand Imperial, LLC,
 Appellant,
 v.
New York City Board of Standards and
Appeals, et al.,
 Respondents.

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

2 Mo. No. 2016-865
In the Matter of State of New York,
 Respondent,
 v.
Clyde J. (Anonymous),
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2016-798
In the Matter of Grace J.

Suffolk County Department of Social
Services,
 Respondent;
Steven J.,
 Appellant;
et al.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2016-831
In the Matter of State of New York,
 Respondent,
 v.
Patrick L. (Anonymous),
 Appellant.

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

3 SSD 60
In the Matter of John A. Lavender, II,
 Appellant,
 v.
Zoning Board of Appeals of the Town of
Bolton, et al.,
 Respondents.

Appeal, insofar as taken from that part of the Appellate Division order affirming the June 2013 Supreme Court judgment, dismissed, without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved; appeal otherwise dismissed, without costs, by the Court sua sponte, upon the ground that the remaining portion of the Appellate Division order does not finally determine the proceeding within the meaning of the Constitution.

2 Mo. No. 2016-806
Leon Holdings, LLC et al.,
 Appellants,
 v.
Northville Industries Corp.,
 Respondent.

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

2 Mo. No. 2016-763
Rhonda Lewis, &c., et al.,
 Appellants,
 v.
Robert Jutkowitz, et al.,
 Defendants,
William Gael, 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 (see Paglia v Agrawal, 69 NY2d 946 [1987]).

3 Mo. No. 2016-1078
The People &c.,
 Respondent,
 v.
Aaron M. Martinez,
 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. 2016-551
Shelley Mizrahi-Srour,
Respondent,
v.
Albert Srour,
Appellant.

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

1 Mo. No. 2016-735
The People &c. ex rel. Frank Monte,
Appellant,
v.
Warden Maxsolaine Mingo, et al.,
Respondents.

Motion for reargument denied.

1 Mo. No. 2016-795
In the Matter of Frank Monte,
Appellant,
v.
Maxsolaine Mingo, &c., et al.,
Respondents.
(App. Div. No. 1525)

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

In the Matter of Frank Monte,
Appellant,
v.
Vincent Miccoli, et al.,
Respondents.
(App. Div. No. 1456)

In the Matter of Frank Monte,
Appellant,
v.
Vincent Miccoli, et al.,
Respondents.
(App. Div. No. 1597)

2 Mo. No. 2016-823
Paul Palmieri,
 Appellant,
 v.
Fred Shore Beach Club, Inc., &c., et al.,
 Respondents,
et al.,
 Defendants.

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

3 Mo. No. 2016-1022
The People &c.,
 Appellant,
 v.
Harold L. Petke,
 Respondent.

Motion for assignment of counsel granted and Richard V. Manning, Esq., 10 Cassidy Road, P.O. Box 273, Parishville, NY 13672 assigned as counsel to the respondent nunc pro tunc on the appeal herein.

4 Mo. No. 2016-1037
The People &c.,
 Respondent,
 v.
Michael E. Prindle,
 Appellant.

Motion by Legal Aid Society 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. Judge Fahey took no part.

3 SSD 59
In the Matter of Martin J. Sawma,
 Appellant,
 v.
Thomas P. DiNapoli, &c.,
 Respondent.

Appeal, insofar as taken from the August 2016 Appellate Division order, dismissed, without costs, by the Court sua sponte, upon the ground that such order does not finally determine the proceeding within the meaning of the Constitution; appeal, insofar as taken from the May 2016 Appellate Division order, dismissed, without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.

1 Mo. No. 2016-1038
The People &c.,
Appellant,
v.
Dwight Smith,
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.

1 Mo. No. 2016-797
In the Matter of Van Wagner
Communications, LLC,
Respondent,
v.
Board of Standards and Appeals of the City of
New York,
Appellant.

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

2 Mo. No. 2016-955
The People &c. ex rel. Blake Wingate,
Appellant,
v.
Michael Capra, &c.,
Respondent.

Motion for leave to appeal denied.

1 SSD 58
The People &c.,
Respondent,
v.
Diane Word,
Appellant.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no civil appeal lies from the order entered in this criminal proceeding (see NY Const, art VI, § 3[b]; CPLR 5601; CPL 450.90).