

November 21, 2016

CASES

4 No. 169
The People &c.,
 Appellant-Respondent,
 v.
Matthew A. Davis,
 Respondent-Appellant.

Order modified in accordance with the opinion herein, case remitted to the Appellate Division, Fourth Department, for consideration of the facts and, as so modified, affirmed.
Opinion by Chief Judge DiFiore.
Judges Pigott, Abdus-Salaam, Stein, Fahey and Garcia concur.
Judge Rivera dissents in part in an opinion.

4 No. 168
In the Matter of James R. Diegelman et al.,
 Appellants,
 v.
City of Buffalo et al.,
 Respondents.

Order reversed, with costs, and matter remitted to the Appellate Division, Fourth Department, for consideration of the facts and issues raised but not determined on the appeal to that court.
Opinion by Judge Stein.
Chief Judge DiFiore and Judges Rivera, Abdus-Salaam, Fahey and Garcia concur.
Judge Pigott dissents and votes to affirm in an opinion.

3 No. 179
In the Matter of Entergy Nuclear Operations,
Inc., et al.,
 Respondents,
 v.
New York State Department of State et al.,
 Appellants.

Order reversed, with costs, petition denied, and judgment granted in favor of appellants in accordance with the opinion herein.
Opinion by Judge Abdus-Salaam.
Chief Judge DiFiore and Judges Pigott, Rivera, Stein, Fahey and Garcia concur.

1 No. 178
The People &c.,
 Respondent,
 v.
Earl Jones,
 Appellant.

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

1 No. 225 SSM 29
Justin Nazario,
 Respondent,
 v.
222 Broadway, LLC, et al.,
 Respondents.

222 Broadway, LLC, et al.,
 Third-Party Respondents,
 v.
Knight Electrical Services Corp.,
 Third-Party Appellant.
(And Other Third-Party Actions.)

On review of submissions pursuant to section 500.11
of the Rules, order, insofar as appealed from,
modified, without costs, by denying plaintiff's motion
for partial summary judgment on the issue of liability
on his Labor Law § 240(1) claim and remitting the
case to the Appellate Division, First Department, for
consideration of issues raised but not determined on
the appeal to that court, and, as so modified,
affirmed, and certified question answered in the
negative, in a memorandum.
Chief Judge DiFiore and Judges Pigott, Rivera,
Abdus-Salaam, Stein, Fahey and Garcia concur.

4 No. 171
The People &c.,
 Respondent,
 v.
Harvert Stephens, Also Known as
Havert Stephens,
 Appellant.

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

4 No. 181
The People &c.,
 Respondent,
 v.
Wilson J. Tardi,
 Appellant.

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

MOTIONS

1 Mo. No. 2016-722
In the Matter of Talib W. Abdur-Rashid,
Appellant,
v.
New York City Police Department, et al.,
Respondents.

Motion for leave to appeal granted.

In the Matter of Samir Hashmi,
Appellant,
v.
New York City Police Department, et al.,
Respondents.

2 Mo. No. 2016-813
In the Matter of Rachel B. Alintoff,
Appellant,
v.
Bryan S. Alintoff,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2016-838
The People &c.,
Respondent,
v.
Aguilary Benitez,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2016-828
In the Matter of Bohdan S. Chomyn,
Appellant,
v.
M. William Boller, &c., et al.,
Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2016-871
Citimortgage, Inc.,
 Respondent,
 v.
George Dulgeroff, et al.,
 Defendants.
West Fork Capital Equities, LLC,
 Nonparty 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.

2 Mo. No. 2016-895
Citimortgage, Inc.,
 Respondent,
 v.
Neil Baser, et al.,
 Appellants,
et al.,
 Defendants.

Motion for leave to appeal dismissed upon the ground that the orders sought to be appealed from do not finally determine the action within the meaning of the Constitution.

2 Mo. No. 2016-866
The People &c.,
 Respondent,
 v.
Eric C. Cooper,
 Appellant.

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

2 Mo. No. 2016-902
In the Matter of Michele A. Darcy,
 Respondent,
 v.
Donald D. Darcy,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2016-829
Afaf Elsayed,
 Respondent,
 v.
Ahmed Edrees,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2016-827
In the Matter of Hampshire Recreation, LLC,
et al.,
Respondents,
v.
Board of Assessors, &c., et al.,
Appellants.

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

1 Mo. No. 2016-891
Antoinette Hunter,
Appellant,
v.
New York City Housing Authority,
Respondent.

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

2 Mo. No. 2016-856
In the Matter of Ruth Kaufman, deceased.

Motion for leave to appeal denied.

Allen M. Kaufman,
Appellant;
Kenneth Kaufman,
Respondent;
Public Administrator of Nassau County,
Nonparty-Respondent.

In the Matter of Hyman Kaufman, deceased.

Allen M. Kaufman,
Appellant;
Kenneth Kaufman,
Respondent;
Public Administrator of Nassau County,
Nonparty-Respondent.

1 Mo. No. 2016-882
Donette Kingston,
Appellant,
v.
New York City Transit Authority,
Respondent.

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

2 Mo. No. 2016-824
Jeffrey Lasner, &c.,
Appellant,
v.
Massachusetts Mutual Life Insurance
Company et al.,
Respondents.

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

2 Mo. No. 2016-875
Law Offices of Thomas F. Liotti, LLC et al.,
Appellants,
v.
State of New York, et al.,
Respondents,
et al.,
Defendant.

Motion for leave to appeal denied.

3 Mo. No. 2016-807
Teodoro Maldonado et al.,
Appellants,
v.
Alain DiBre et al.,
Respondents.

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

2 SSD 57
Nella Manko,
Appellant,
v.
Lenox Hill Hospital,
Respondent.

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

2 Mo. No. 2016-820
Nella Manko,
Appellant,
v.
Lenox Hill Hospital,
Respondent.

Motion for reargument denied.
Judge Abdus-Salaam took no part.

1 Mo. No. 2016-809
The People &c.,
Respondent,
v.
Gerardo Miguel,
Appellant.

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

2 Mo. No. 2016-894
Steven Palm, &c., et al.,
Appellants,
v.
Tuckahoe Union Free School District, et al.,
Respondents,
et al.,
Defendants.

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

2 Mo. No. 2016-903
John K. Renke II,
Respondent,
v.
Joyce Kwiecinski,
Appellant.

Motion for reargument of motion for leave to appeal
dismissed as untimely (see 22 NYCRR 500.24[b]).

2 Mo. No. 2016-1070
In the Matter of Joelle Savas,
 Respondent,
 v.
Daniel Joseph Bruen,
 Appellant.

Motion, insofar as it seeks leave to appeal from the May 2016 Appellate Division order reversing the June 2015 Supreme Court order and remitting to Supreme Court for a hearing, dismissed upon the ground that such order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied. Motion for poor person relief dismissed as academic. Motion for a stay dismissed as academic.

3 Mo. No. 2016-883
David Silverman et al.,
 Appellants,
 v.
Gerald A. Doell,
 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.

1 Mo. No. 2016-874
Marc Starr,
 Appellant,
 v.
Fuoco Group LLP et al.,
 Defendants,
Eureka Capital Markets, LLC, et al.,
 Respondents.

Motion for leave to appeal dismissed upon the ground that the Appellate Division order sought to be appealed from does not finally determine the action within the meaning of the Constitution and the stipulation does not qualify as a final judgment within the meaning of CPLR 5602(a)(1)(ii) to bring up for review the prior nonfinal Appellate Division order because it was entered into "without prejudice."

1 Mo. No. 2016-927
Marc Starr,
Appellant,
v.
Fuoco Group LLP et al.,
Defendants,
Eureka Capital Markets, LLC, et al.,
Respondents.

Motion by Public Investors Arbitration Bar Association for leave to appear amicus curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.

1 Mo. No. 2016-881
Stilwell Value Partners, IV, L.P., &c.,
Appellant,
v.
Diane B. Cavanaugh, et al.,
Respondents.

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

2 Mo. No. 2016-900
Structure Tek Construction, Inc.,
Respondent,
v.
Waterville Holdings, LLC, &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. 2016-837
The People &c.,
Respondent,
v.
Jeffrey Uphael,
Appellant.

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

4 Mo. No. 2016-634
Robert S. Weichert,
Appellant,
v.
Village of Parish, et al.,
Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2016-854
In the Matter of Amy R. Weissbrod,
 Appellant,
 v.
Jorge DoPico, Esq., et al.,
 Respondents.

Motion for leave to appeal denied.