

June 27, 2017

CASES

1 No. 75
Miriam Aristy-Farer, et al.,
 Respondents,
 v.
State of New York, et al.,
 Appellants.

New Yorkers for Students' Educational Rights
("NYSER"), et al.,
 Respondents,
 v.
State of New York, et al.,
 Appellants.

 No. 109
E.J. Brooks Company, &c.,
 Appellant-Respondent,
 v.
Cambridge Security Seals,
 Respondent-Appellant.

Order, insofar as appealed from, modified in accordance with the opinion herein, without costs, and, as so modified, affirmed and certified question answered in the negative.
Opinion by Judge Wilson.
Chief Judge DiFiore and Judges Stein, Fahey and Garcia concur.
Judge Rivera concurs in part and dissents in part in an opinion.
Judge Feinman took no part.

Certification of questions by the United States Court of Appeals for the Second Circuit, pursuant to section 500.27 of this Court's Rules of Practice, accepted and the issues presented are to be considered after briefing and argument.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia and Wilson concur.
Judge Feinman took no part.

No. 79
Karine Gevorkyan, et al.,
Appellants,
v.
Ira Judelson,
Respondent.

Following certification of a question by the United States Court of Appeals for the Second Circuit and acceptance of the question by this Court pursuant to section 500.27 of this Court's Rules of Practice, and after hearing argument by counsel for the parties and consideration of the briefs and the record submitted, certified question answered in the negative.

Opinion by Chief Judge DiFiore.

Judges Rivera, Stein, Fahey, Garcia and Wilson concur.

Judge Feinman took no part.

2 No. 58
The People &c.,
Respondent,
v.
Chris Price,
Appellant.

Order reversed and a new trial ordered.

Opinion by Judge Stein.

Chief Judge DiFiore and Judges Fahey and Wilson concur.

Judge Rivera concurs in result in an opinion in which Judge Garcia concurs.

Judge Feinman took no part.

No. 110
In the Matter of the Hon. Lurlyn A.
Winchester, a Justice of the Monroe Town
Court, Orange County.

On the Court's own motion, it is determined that Honorable Lurlyn A. Winchester is suspended, with pay, effective immediately, from the office of Justice of Monroe Town Court, Orange County, pursuant to New York Constitution, article VI, § 22 and Judiciary Law § 44.

Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

MOTIONS

4 Mo. No. 2017-479
The People &c.,
Respondent,
v.
Jamal Asfour,
Appellant.

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

2 Mo. No. 2017-499
In the Matter of Astoria Landing, Inc.,
Appellant,
v.
New York City Environmental Control
Board,
Respondent.

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

2 Mo. No. 2017-480
The People &c. ex rel. Jean Azor,
Appellant,
v.
Warden Saunders, &c.,
Respondent.

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

4 Mo. No. 2017-519
The People &c.,
Respondent,
v.
Ryan P. Brahney,
Appellant.

Motion for reargument denied.
Judge Feinman took no part.

2 Mo. No. 2017-487
The People &c.,
Respondent,
v.
Quinn Britton,
Appellant.

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

4 Mo. No. 2017-506
The People &c. ex rel. Erick M. Campbell,
Appellant,
v.
Superintendent, J. Colvin, Mid-State
Correctional Facility,
Respondent.

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

2 Mo. No. 2017-504
Chappaqua Central School District et al.,
Appellants,
v.
Philadelphia Indemnity Insurance Company,
Respondent,
et al.,
Defendant.

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

3 Mo. No. 2017-471
Kevin Checksfield,
Appellant,
v.
Stefan D. Berg,
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.
Judge Feinman took no part.

4 Mo. No. 2017-485
The People &c. ex rel. Antonio Cole,
Appellant,
v.
Harold D. Graham, &c.,
Respondent.

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

1 Mo. No. 2017-511
Todd Courtney et al.,
Appellants,
v.
18th & 8th LLC et al.,
Respondents.

Motion for leave to appeal dismissed as untimely
(see CPLR 5513[b]; Eaton v State of New York, 76
NY2d 824 [1990]).
Judge Feinman took no part.

3 Mo. No. 2017-497
In the Matter of Laura R. Daniels,
Appellant,
v.
Long Island D.D.S.O. et al.,
Respondents.
Workers' Compensation Board,
Respondent.

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

1 Mo. No. 2017-548
The People &c.,
Appellant,
v.
Frederick Diaz,
Respondent.

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

2 Mo. No. 2017-515
Mark Eddy,
Appellant,
v.
John Hummel Custom Builders, Inc.,
Respondent,
et al.,
Defendants.

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

1 Mo. No. 2017-496
In the Matter of Samuel Encarnacion,
Appellant,
v.
Richard J. Price,
Respondent.

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

2 Mo. No. 2017-450
Lillian Fischer,
Appellant,
v.
City of New York, et al.,
Respondents.

Motion for leave to appeal, insofar as taken from that portion of the Appellate Division order affirming so much of the Supreme Court order as granted the motion to dismiss the complaint, 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.
Judge Feinman took no part.

3 Mo. No. 2017-508
In the Matter of Thomas Flanigan,
Appellant,
v.
Bonnie Smyth,
Respondent.

Motion, insofar as Thomas Flanigan seeks leave to appeal, dismissed upon the ground that he is not a party aggrieved (see CPLR 5511); motion for leave to appeal otherwise denied.
Judge Feinman took no part.

Linda A. Mandel Clemente,
Non-Party Appellant.

2 Mo. No. 2017-517
In the Matter of Daryl Graham,
Appellant,
v.
Neil Jon Firetog, &c., et al.,
Respondents.

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

1 Mo. No. 2017-475
Greenman-Pedersen, Inc., et al.,
Appellants,
v.
Berryman & Henigar, Inc., et al.,
Respondents.

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

2 Mo. No. 2017-445
Verna Hobbins,
Appellant,
v.
North Star Orthopedics, PLLC, et al.,
Defendants,
Paul Ackerman, &c.,
Respondent.

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

4 Mo. No. 2017-490
The People &c.,
Respondent,
v.
Darshawn T. Johnson,
Appellant.

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

2 Mo. No. 2017-516
Gala Kaprov,
Respondent,
v.
Roman Stalinsky et al.,
Appellants.

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

4 Mo. No. 2017-486
The People &c.,
Respondent,
v.
Michael A. King, Jr.,
Appellant.

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

1 Mo. No. 2017-456
Alfonso Marin,
Respondent,
v.
New York City Health and Hospitals
Corporation et al.,
Appellants,
et al.,
Defendant.

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

4 Mo. No. 2017-489
The People &c.,
Respondent,
v.
Kurt A. McCall,
Appellant.

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

4 Mo. No. 2017-478
The People &c.,
Respondent,
v.
Michael Newman,
Appellant.

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

2 Mo. No. 2017-505
Delia Paino et al.,
Appellants,
v.
Anthony Reitano et al.,
Respondents,
et al.,
Defendants.

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

1 Mo. No. 2017-483
Prospect Funding Holdings L.L.C.,
Appellant,
v.
Pamela Maslowski,
Respondent,
et al.,
Defendants.

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

1 Mo. No. 2017-434
Segundo Quishpi,
Appellant,
v.
80 WEA Owner, LLC et al.,
Respondents.
(And a Third-Party Action.)

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

2 Mo. No. 2017-513
The People &c.,
 Respondent,
 v.
Christopher Sakowski,
 Appellant.

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

1 Mo. No. 2017-549
In the Matter of Matthew Louis S., &c.

Raymond R.,
 Appellant,
The Children's Village,
 Respondent,
et al.,
 Respondents.

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

3 Mo. No. 2017-470
Mark Schroeder et al.,
 Appellants,
 v.
State of New York,
 Respondent.

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

1 Mo. No. 2017-503
Jeanetta Stega, &c.,
 Appellant,
et al.,
 Plaintiff,
 v.
New York Downtown Hospital, et al.,
 Respondents,
et al.,
 Defendants.

Motion to dismiss appeal denied.
Chief Judge DiFiore and Judge Feinman took no
part.

1 Mo. No. 2017-500
In the Matter of Kaseem Williams,
 Appellant,
 v.
A. Yearwood, et al.,
 Respondents.

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