

March 30, 2017

CASES

4                    No. 26  
The People &c.,  
    Respondent,  
    v.  
Ryan P. Brahney,  
    Appellant.

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

2                    No. 30  
The People &c.,  
    Appellant,  
    v.  
William Cook,  
    Respondent.

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

2                    No. 31  
The People &c.,  
    Respondent,  
    v.  
William Cook,  
    Appellant.

Order reversed and case remitted to the Appellate  
Division, Second Department, for consideration of  
issues raised but not determined on appeal to that  
court.  
Opinion by Judge Stein.  
Chief Judge DiFiore and Judges Rivera, Abdus-  
Salaam and Wilson concur.  
Judge Garcia dissents and votes to affirm in an  
opinion in which Judge Fahey concurs.

1                    No. 27  
Thomas J. O'Brien, Jr.,  
    Respondent,  
    v.  
Port Authority of New York and New Jersey,  
et al.,  
    Appellants,  
Silverstein Properties, Inc., et al.,  
    Defendants.

Order, insofar as appealed from, modified, without  
costs, by denying plaintiff's motion insofar as it  
sought summary judgment of liability on his Labor  
Law § 240(1) claim and, as so modified, affirmed and  
the certified question answered in the negative.  
Opinion by Chief Judge DiFiore.  
Judges Abdus-Salaam, Stein and Garcia concur.  
Judge Rivera dissents in an opinion in which Judges  
Fahey and Wilson concur.

1                    No. 32  
The People &c.,  
    Respondent,  
    v.  
Yusuf Sparks,  
    Appellant.

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

1                    No. 33  
The People &c.,  
    Appellant,  
    v.  
Carlos Valentin,  
    Respondent.

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

## MOTIONS

1                    Mo. No. 2017-116  
Richard Altman,  
    Respondent,  
    v.  
285 West Fourth LLC,  
    Appellant.

Motion for leave to appeal granted.

1                    Mo. No. 2017-177  
Richard Altman,  
    Respondent,  
    v.  
285 West Fourth LLC,  
    Appellant.

Motion by Rent Stabilization Association of New York City, Inc., et al. for leave to appear amici curiae on the motion for leave to appeal herein granted and the affirmation is accepted as filed.

1                    Mo. No. 2017-122  
Lane Altschuler,  
    Respondent,  
    v.  
Jobman 478/480, LLC,  
    Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2017-130  
Lane Altschuler,  
    Respondent,  
    v.  
Jobman 478/480, LLC,  
    Appellant.

Motion by Rent Stabilization Association of New York City, Inc., et al. for leave to appear amici curiae on the motion for leave to appeal herein granted and the affirmation is accepted as filed.

2                    Mo. No. 2017-159  
Amtrust-NP SFR, Venture, LLC,  
    Respondent,  
    v.  
Karen Emmel,  
    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.

2 Mo. No. 2017-303  
Bank of New York Mellon, &c.,  
Appellant,  
v.  
Arif Izmirligil,  
Respondent,  
et al.,  
Defendants.

Motion by respondent for the imposition of sanctions denied.

2 Mo. No. 2017-314  
Bank of New York Mellon, &c.,  
Appellant,  
v.  
Arif Izmirligil,  
Respondent,  
et al.,  
Defendants.

Motion by appellant for permission to withdraw the appeal granted and appeal marked withdrawn.

2 Mo. No. 2017-345  
The People &c.,  
Respondent,  
v.  
Otis Boone,  
Appellant.

Motion by The Innocence Project, Inc. for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Judge Wilson took no part.

2 Mo. No. 2017-371  
The People &c.,  
Respondent,  
v.  
Otis Boone,  
Appellant.

Motion by Daniel R. Alonso, et al. for leave to file a brief amici curiae on the appeal 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. Judge Wilson took no part.

2 Mo. No. 2017-372  
The People &c.,  
Respondent,  
v.  
Otis Boone,  
Appellant.

Motion by American Psychological Association for leave to appear amicus curiae on the appeal herein granted only to the extent that 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 Wilson took no part.

2 Mo. No. 2017-373  
The People &c.,  
Respondent,  
v.  
Otis Boone,  
Appellant.

Motion by National Association for the Advancement of Colored People 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. Two copies of the brief must be served and an original and nine copies filed within seven days.  
Judge Wilson took no part.

2 Mo. No. 2017-380  
The People &c.,  
Respondent,  
v.  
Otis Boone,  
Appellant.

Motion by NAACP Legal Defense & Education Fund, Inc. for leave to file a brief amicus curiae on the appeal 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.  
Judge Wilson took no part.

1 Mo. No. 2017-370  
The Burlington Insurance Company,  
Appellant,  
v.  
NYC Transit Authority, et al.,  
Respondents.

Motion by Turner Construction Company for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed.

1 Mo. No. 2017-132  
The People &c.,  
Respondent,  
v.  
Victor Capellan,  
Appellant.

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

3 Mo. No. 2017-113  
Russell E. Cooper,  
Appellant,  
v.  
James E. Pullar et al.,  
Defendants,  
First Niagara Bank, N.A., &c.,  
Respondent.

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

3 Mo. No. 2017-342  
Russell E. Cooper,  
Appellant,  
v.  
James E. Pullar et al.,  
Defendants,  
First Niagara Bank, N.A., &c.,  
Respondent.

Motion for a stay dismissed as academic.

1 Mo. No. 2017-60  
CPS 227 LLC,  
Respondent,  
v.  
Martin Brody, &c.,  
Appellant.

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

1 Mo. No. 2017-343  
The People &c.,  
Appellant,  
v.  
Raymond Crespo,  
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.

2                    Mo. No. 2017-133  
The People &c.,  
    Respondent,  
    v.  
Jade Destio,  
    Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2017-88  
Jeffrey L. Doppelt, &c.,  
    Appellant,  
    v.  
Wellington J. Denahan, et al.,  
    Respondents,  
Annaly Capital Management, Inc.,  
    Nominal Defendant-Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2017-17  
In the Matter of Betty Floyd,  
    Appellant,  
    v.  
Glenn Gardens Associates et al.,  
    Respondents.

On the Court's own motion, appeal dismissed,  
without costs, upon the ground that the order  
appealed from does not finally determine the  
proceeding within the meaning of the Constitution.  
Motion for poor person relief dismissed as academic.

1                    Mo. No. 2017-254  
In the Matter of Betty Floyd,  
    Appellant,  
    v.  
Glenn Gardens Associates et al.,  
    Respondents.

Motion for a stay dismissed as academic.

1 Mo. No. 2017-369  
For the People Theatres of N.Y. Inc., &c.,  
Plaintiff,  
JGJ Merchandise Corp., &c.,  
Respondent,  
v.  
City of New York, et al.,  
Appellants.

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Ten's Cabaret, Inc., &c., et al.,  
Respondents,  
v.  
City of New York, et al.,  
Appellants.

1 Mo. No. 2017-144  
The People &c.,  
Respondent,  
v.  
Jose Garcia,  
Appellant.

2 Mo. No. 2017-94  
The People &c.,  
Respondent,  
v.  
Cleophus Harmon,  
Appellant.

4 Mo. No. 2017-221  
In the Matter of Jennifer L.,  
Appellant,  
v.  
Gerald S., Jr.,  
Respondent.  
(And Three Other Proceedings.)

Motion by First Amendment Lawyers Association  
for leave to file a brief amicus curiae on the appeal  
herein granted and the proposed brief is accepted as  
filed.

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

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

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 poor person relief dismissed as academic.



3                    SSD 12  
Frank Maki,  
                  Appellant,  
          v.  
The Travelers Companies, Inc., et al.,  
                  Respondents,  
et al.,  
                  Defendant.

Appeal, insofar as taken as against defendant Northland Insurance Company, dismissed without costs, by the Court sua sponte, upon the ground that as to that defendant the Appellate Division order does not finally determine the action 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.

1                    Mo. No. 2017-152  
In the Matter of Teddy Moore,  
                  Appellant,  
          v.  
Departmental Disciplinary Committee,  
Supreme Court, Appellate Division, First  
Judicial Department,  
                  Respondent.

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

1                    Mo. No. 2017-153  
In the Matter of Teddy Moore,  
                  Appellant,  
          v.  
New York State Commission on Judicial  
Conduct,  
                  Respondent.

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

1                    Mo. No. 2017-348  
Sara Myers et al.,  
                  Plaintiffs,  
Eric A. Seiff, et al.,  
                  Appellants,  
          v.  
Eric Schneiderman, &c.,  
                  Respondent,  
et al.,  
                  Defendants.

Motion by Agudath Israel of America for leave to file a brief amicus curiae on the appeal 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. Chief Judge DiFiore took no part.

1                    Mo. No. 2017-142  
The People &c.,  
    Respondent,  
    v.  
Roland Nelson,  
    Appellant.

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

2                    Mo. No. 2017-129  
New York Central Lines, LLC,  
    Respondent,  
    v.  
State of New York,  
    Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2017-261  
The People &c.,  
    Respondent,  
    v.  
Robert Perry,  
    Appellant.

Motion to dismiss appeal denied.

2                    Mo. No. 2017-147  
The People &c.,  
    Respondent,  
    v.  
Dean Picariello,  
    Appellant.

Motion for leave to appeal denied.  
Chief Judge DiFiore took no part.

1                    Mo. No. 2017-143  
In the Matter of Karin R., &c.,  
    Appellant.  
Delinda R.,  
    Respondent.

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In the Matter of Hunter R., &c.

Delinda R.,  
    Respondent;  
The Children's Village,  
    Respondent.

1                    Mo. No. 2017-136  
The People &c.,  
    Respondent,  
    v.  
Roger Reid,  
    Appellant.

2                    Mo. No. 2017-150  
The People &c.,  
    Respondent,  
    v.  
Alexander Rukasov,  
    Appellant.

3                    Mo. No. 2017-329  
The People &c.,  
    Respondent,  
    v.  
Pedro A. Umana,  
    Appellant.

Motion for leave to appeal denied.

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

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

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.

1                    Mo. No. 2017-148  
The People &c.,  
    Respondent,  
    v.  
Robert Williams,  
    Appellant.

Motion for leave to appeal denied.