

May 4, 2017

CASES

No. 50

The People &c.,
Respondent,
v.
Andrew R. Bushey,
Appellant.

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

No. 35

Trathony Griffin and Michael Godwin,
Appellants,
v.
Sirva, Inc. and Allied Van Lines, Inc.,
Respondents.

Following certification of questions by the United States Court of Appeals for the Second Circuit and acceptance of the questions 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, the first certified question answered in the affirmative and the remaining questions, as reformulated, answered in accordance with the opinion herein.
Opinion by Chief Judge DiFiore.
Judges Stein, Fahey, Garcia and Wilson concur.
Judge Rivera dissents in an opinion.

3 No. 37

In the Matter of Gerald E. Loehr et al.,
Respondents,
v.
Administrative Board of the Courts of the
State of New York,
Appellant.

Order reversed, without costs, and judgment of Supreme Court, Albany County, reinstated.
Opinion Per Curiam.
Judges Rivera, Stein, Fahey, Garcia and Wilson
concur.
Chief Judge DiFiore took no part.

2 No. 86 SSM 10
Carmen Pesante,
 Respondent,
 v.
Vertical Industrial Development Corp., et al.,
 Appellants,
et al.,
 Defendant.
(and a third party action).

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative, in a memorandum.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia and Wilson concur.

1 No. 38
The People &c.,
 Respondent,
 v.
John Stone,
 Appellant.

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

MOTIONS

2 Mo. No. 2017-244
In the Matter of Child A.

Parent M. et al.,
 Appellants;
Spence-Chapin Services to Families &
Children et al.,
 Respondents.
New York State Office of Children & Family
Services,
 Nonparty Respondent.
(And Another Proceeding.)

Motion for leave to appeal denied.

1 Mo. No. 2017-468
In the Matter of Talib W. Abdur-Rashid,
 Appellant,
 v.
New York City Police Department, et al.,
 Respondents.

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

Motion by Reporters Committee for Freedom of the
Press, 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.
Judge Wilson took no part.

3 Mo. No. 2017-189
In the Matter of Darius Ashley,
 Appellant,
 v.
Anthony J. Annucci, &c.,
 Respondent.

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

4 Mo. No. 2017-265
In the Matter of Aaliyah B., et al.

Onondaga County Department of Children
and Family Services,
Respondent;
Christina B., &c.,
Appellant.

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

4 Mo. No. 2017-209
Suzanne Barner, &c.,
Appellant,
v.
Christopher R. Depner, M.D., et al.,
Defendants,
The University of Rochester et al.,
Respondents.

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

3 Mo. No. 2017-161
In the Matter of Jacob Berger,
Appellant.
Gail & Rice, Inc.,
Respondent.
Commissioner of Labor,
Respondent.

Motion for leave to appeal denied.

2 SSD 18
Blue Island Development, LLC et al.,
Respondents,
v.
Town of Hempstead et al.,
Appellants.

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

2 Mo. No. 2017-97
In the Matter of Max Crane, &c.

Alan M. Crane,
 Respondent;
Judith Hollander,
 Appellant.

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

1 Mo. No. 2017-458

The People &c.,
 Respondent,
 v.
Twanek Cummings,
 Appellant.

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 appellant on the appeal herein.

2 Mo. No. 2017-253
In the Matter of State of New York,
 Respondent,

 v.
Justin D. (Anonymous),
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2017-414
Deutsche Bank National Trust Company,
solely in its capacity as Trustee for the
Harborview Mortgage Loan Trust Series
2007-7,

 Appellant,
 v.
Flagstar Capital Markets Corporation,
 Defendant,
Quicken Loans, Inc.,
 Respondent.

Motion by GreenPoint Mortgage Funding, Inc. for leave to appear amicus curiae on the appeal herein denied.
Judge Garcia took no part.

1 Mo. No. 2017-415
Deutsche Bank National Trust Company,
solely in its capacity as Trustee for the
Harborview Mortgage Loan Trust Series
2007-7,
Appellant,
v.
Flagstar Capital Markets Corporation,
Defendant,
Quicken Loans, Inc.,
Respondent.

Motion by The Bank of New York Mellon, solely in
its capacity as Securities Administrator for J.P.
Morgan Mortgage Acquisition Trust, Series 2006-
WMC2, for leave to file a letter brief amicus curiae
on the appeal herein denied.
Judge Garcia took no part.

1 Mo. No. 2017-416
Deutsche Bank National Trust Company,
solely in its capacity as Trustee for the
Harborview Mortgage Loan Trust Series
2007-7,
Appellant,
v.
Flagstar Capital Markets Corporation,
Defendant,
Quicken Loans, Inc.,
Respondent.

Motion by WMC Mortgage, LLC for leave to file a
letter brief amicus curiae on the appeal herein
denied.
Judge Garcia took no part.

1 Mo. No. 2017-427
Deutsche Bank National Trust Company,
solely in its capacity as Trustee for the
Harborview Mortgage Loan Trust Series
2007-7,
Appellant,
v.
Flagstar Capital Markets Corporation,
Defendant,
Quicken Loans, Inc.,
Respondent.

Motion by LNR Partners, LLC, et al. for leave to
appear amici curiae on the appeal herein granted only
to the extent that the proposed letter brief is accepted
as filed. Three copies of the letter brief must be
served and an original and nine copies filed within
seven days.
Judge Garcia took no part.

3 Mo. No. 2017-233
In the Matter of Kathy A. Dopp,
 Appellant,
 v.
State University of New York,
 Respondent.

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

2 Mo. No. 2017-186
The People &c.,
 Respondent,
 v.
Daquan Gardner,
 Appellant.

Motion for leave to appeal denied.

 Mo. No. 2017-502
Karine Gevorkyan, et al.,
 Appellants,
 v.
Ira Judelson,
 Respondent.

Motion by Brooklyn Defender Services, et al. for leave to file a brief amici curiae on consideration of the certified question 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.

3 Mo. No. 2017-155
Terrence Gibbs,
 Respondent,
 v.
Ralph Porath et al.,
 Appellants.

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

4 Mo. No. 2017-207
Daryl A. Hanifan,
 Appellant,
 v.
COR Development Company, LLC et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2017-316
Thomas C. Hansard, Jr.,
Appellant,
v.
Federal Insurance Company,
Respondent.

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

1 SSD 17
The Heywood Condominium, &c.,
Respondent,
v.
Steven Wozencraft,
Appellant,
Wells Fargo Bank, N.A., et al.,
Defendants.

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.

3 Mo. No. 2017-158
In the Matter of Johnathan Johnson,
Appellant,
v.
John T. Ellis,
Respondent.
(And Four Other Related Matters.)

Motion for leave to appeal denied.

3 Mo. No. 2017-226
In the Matter of William E. Kenyon,
Appellant,
v.
Broome County Supreme Court, et al.,
Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2017-199
The People &c.,
Respondent,
v.
Nicholas J. Loughlin,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2017-174
The People &c. ex rel. Titus McBride,
 Appellant,
 v.
Warden,
 Respondent.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the proceeding within the meaning of the Constitution.
Motion for poor person relief dismissed as academic.

3 Mo. No. 2017-217
In the Matter of Maureen J. McCauley,
 Appellant,
 v.
New York State and Local Employees'
Retirement System et al.,
 Respondents.

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

4 Mo. No. 2017-139
Michele Moore-Haarr, &c.,
 Appellant,
 v.
Z-Axis, Inc.,
 Respondent,
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.

1 Mo. No. 2017-466
Sara Myers et al.,
 Plaintiffs,
Eric A. Seiff, et al.,
 Appellants,
 v.
Eric Schneiderman, &c.,
 Respondent,
et al.,
 Defendants.

Motion by American Medical Student Association, 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.
Chief Judge DiFiore took no part.

1 Mo. No. 2017-467
Sara Myers et al.,
 Plaintiffs,
Eric A. Seiff, et al.,
 Appellants,
 v.
Eric Schneiderman, &c.,
 Respondent,
et al.,
 Defendants.

Motion by Richard N. Gottfried, et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed. Chief Judge DiFiore took no part.

1 Mo. No. 2017-477
Sara Myers et al.,
 Plaintiffs,
Eric A. Seiff, et al.,
 Appellants,
 v.
Eric Schneiderman, &c.,
 Respondent,
et al.,
 Defendants.

Motion by Betty Rollin, 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. Chief Judge DiFiore took no part.

1 Mo. No. 2017-481
Sara Myers et al.,
 Plaintiffs,
Eric A. Seiff, et al.,
 Appellants,
 v.
Eric Schneiderman, &c.,
 Respondent,
et al.,
 Defendants.

Motion by National Association of Criminal Defense Lawyers 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. Chief Judge DiFiore took no part.

1 Mo. No. 2017-482
Sara Myers et al.,
Plaintiffs,
Eric A. Seiff, et al.,
Appellants,
v.
Eric Schneiderman, &c.,
Respondent,
et al.,
Defendants.

Motion by Vincent Bonventre, 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.
Chief Judge DiFiore took no part.

1 Mo. No. 2017-493
Sara Myers et al.,
Plaintiffs,
Eric A. Seiff, et al.,
Appellants,
v.
Eric Schneiderman, &c.,
Respondent,
et al.,
Defendants.

Motion by Unitarian Universalist Association, 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.
Chief Judge DiFiore took no part.

1 Mo. No. 2017-501
Sara Myers et al.,
Plaintiffs,
Eric A. Seiff, et al.,
Appellants,
v.
Eric Schneiderman, &c.,
Respondent,
et al.,
Defendants.

Motion by Compassion & Choices 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.
Chief Judge DiFiore took no part.

2 Mo. No. 2017-228
The People &c.,
Respondent,
v.
Ricky Noble,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2017-103
In the Matter of Juan Ortiz,
 Appellant,
 v.
Frederick T. Zugibe, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2017-227
In the Matter of William Qualls,
 Appellant,
 v.
Bronx District Attorney's Office et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2017-232
In the Matter of Ralex Services, Inc., &c.,
 Appellant,
 v.
Nirav R. Shah, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2017-201
The People &c.,
 Respondent,
 v.
Stephen M. Reber,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2017-180
In the Matter of Joyce S.,
 Appellant,
 v.
Robert W.S.,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2017-212
In the Matter of Gerald Smith,
 Appellant,
 v.
Tonya Stewart,
 Respondent.

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

2 Mo. No. 2017-267
In the Matter of Daria M. Sullivan,
 Respondent,
 v.
Steven S. Plotnick,
 Appellant.
(And Another Proceeding.)

Motion for leave to appeal denied.

1 Mo. No. 2017-269
In the Matter of Diane T.,
 Appellant,
 v.
Shawn N., et al.,
 Respondents.

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

1 Mo. No. 2017-437
Dr. Robert N. Taub,
 Appellant,
 v.
Columbia University in the City of New
York, 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.

2 Mo. No. 2017-190
Vivir of L I, Inc., &c.,
Plaintiff/Counterclaim Defendant,
 v.
John Ehrenkranz et al.,
 Appellants;
Julian Boylan,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2017-192
Anneya Ward,
 Appellant,
 v.
Chista Safajou, &c., et al.,
 Defendants,
Nhan Tai, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2017-156
Michael C. Weidner,
 Respondent,
 v.
Lisa Fix Weidner,
 Appellant.

Motion for reargument of motion for leave to appeal denied.
Motion, insofar as it seeks leave to appeal from the February 2016 Appellate Division order, dismissed upon the ground that it does not lie, appellant having previously moved for leave to appeal to this Court (28 NY3d 1101 [2016]) from the same Appellate Division order from which leave to appeal is currently sought (see Selinger v Selinger, 90 NY2d 842 [1997]); motion, insofar as it seeks leave to appeal from the November 2016 Supreme Court order, dismissed for failure to demonstrate timeliness as required by Rules of the Court of Appeals (see 22 NYCRR 500.22[b][2]).

1 Mo. No. 2017-306
In the Matter of Foster Williams,
 Appellant,
 v.
Department of Corrections and Community
Supervision,
 Respondent.

Motion by appellant to dismiss appeal &c. granted to the extent that the appeal is dismissed, without costs, upon the ground that the issues presented have become moot; motion otherwise denied.

1 Mo. No. 2017-208
In the Matter of Arkel Wilson,
 Respondent,
 v.
New York City Housing Authority, et al.,
 Appellants.

Motion for leave to appeal denied.

1 Mo. No. 2017-218
Women's Interart Center, Inc.,
 Appellant,
 v.
Clinton Housing Development Fund Corp.,
 Respondent,
City of New York,
 Intervenor-Respondent.
(And Another Action.)

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