

April 03, 2014

CASES

1 No. 49
Captain Lori Alburnio et al.,
 Appellants,
 v.
The City of New York, et al.,
 Defendants,
Mary D. Dorman,
 Nonparty-Respondent.

Order, insofar as appealed from, modified, with costs to appellants, and case remitted to Supreme Court, New York County, for further proceedings in accordance with the opinion herein.
Opinion by Chief Judge Lippman.
Judges Graffeo, Read, Smith, Pigott and Rivera concur.
Judge Abdus-Salaam took no part.

1 No. 56
The People &c.,
 Respondent,
 v.
Ivan Calaff,
 Appellant.

Order affirmed.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Graffeo, Read, Pigott and Rivera concur.
Judge Abdus-Salaam took no part.

1 No. 57
The People &c.,
 Respondent,
 v.
Alexander Dockery,
Also Known as John Harris,
 Appellant.

Order affirmed.
Opinion by Judge Smith.
Judges Graffeo, Read and Pigott concur.
Judge Rivera dissents in an opinion in which Chief Judge Lippman concurs.
Judge Abdus-Salaam took no part.

1 No. 63
In the Matter of John Kapon,
et al.,
 Appellants,
 v.
William I. Koch,
 Respondent.

Order affirmed, with costs.
Opinion by Judge Pigott.
Chief Judge Lippman and Judges Graffeo, Read, Rivera and Abdus-Salaam concur.
Judge Smith took no part.

2 No. 31
In the Matter of David Kaslow,
 Respondent,
 v.
City of New York, et al.,
 Appellants.

Order reversed, with costs, and petition dismissed.
Opinion by Judge Read.
Chief Judge Lippman and Judges Graffeo, Smith,
Pigott, Rivera and Abdus-Salaam concur.

1 No. 58
The People &c.,
 Respondent,
 v.
Teofilo Lopez,&c.,
 Appellant.

Order reversed and case remitted to the Appellate
Division, First Department, for further proceedings in
accordance with the opinion herein.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Graffeo, Read,
Pigott and Rivera concur.
Judge Abdus-Salaam took no part.

1 No. 55
The People &c.,
 Respondent,
 v.
Reynaldo Perez,
 Appellant.

Order affirmed.
Opinion by Judge Smith.
Judges Graffeo, Read and Pigott concur.
Judge Rivera dissents in an opinion in which Chief
Judge Lippman concurs.
Judge Abdus-Salaam took no part.

4 No. 128 SSM 6
Preferred Mutual Insurance Company,
 Respondent,
 v.
John Donnelly, et al.,
 Defendants,
Robert Jackson,
 Appellant.

On review of submissions pursuant to section 500.11
of the Rules, order affirmed, with costs, in a
memorandum.
Chief Judge Lippman and Judges Graffeo, Read,
Smith, Pigott, Rivera and Abdus-Salaam concur.

MOTIONS

3 Mo. No. 2014-165
In the Matter of Rafael Agosto,
 Appellant,
 v.
Molly Reynolds Fitzgerald,
 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.

2 Mo. No. 2014-170
Susan Aranoff,
 Respondent,
 v.
Gerald Aranoff,
 Appellant.

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as dismissed defendant's appeals from Supreme Court's June 2013 order and September 2013 judgment, dismissed upon the ground that this Court does not have jurisdiction to entertain a motion from the Appellate Division order dismissing appeals to that court from an order and judgment entered on default (see CPLR 5511); motion for leave to appeal otherwise dismissed upon the ground that the remaining portion of the order does not finally determine the action within the meaning of the Constitution.
Motion for poor person relief dismissed as academic.

1 Mo. No. 2014-112
BDCM Opportunity Fund II, L.P., et al.,
 Respondents,
 v.
Yucaipa American Alliance Fund I, L.P. et
al.,
 Appellants.

Motion, insofar as it seeks leave to appeal as against respondents BDCM Opportunity Fund II, L.P. and Black Diamond CLO 2005-1 Ltd., dismissed upon the ground that as to those respondents the order sought to be appealed from does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

4 Mo. No. 2014-164
In the Matter of Roberto C., Jr.

Sharon W. et al.,
Respondents,
v.
Roberto C., Sr.,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2014-60
Asheem Cunningham,
Appellant,
v.
Gary L. Keehfus et al.,
Respondents.

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

3 Mo. No. 2014-155
The People &c. ex rel. Kareem Fauntleroy,
Appellant,
v.
David Rock, &c.,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2014-142
The People &c.,
Respondent,
v.
Kyle R. Faver,
Appellant.

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

2 Mo. No. 2014-162
Flushing Savings Bank, FSB,
Appellant,
v.
Pierre Bitar, &c.,
Respondent,
et al.,
Defendants.

Motion for leave to appeal granted.

2 Mo. No. 2014-158
Pamela Gallagher, &c.,
Respondent,
et al.,
Plaintiff,
v.
Long Island Plastic Surgical Group, P.C.,
Appellant.

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

2 Mo. No. 2014-173
The People &c.,
Appellant,
v.
Mark Garrett,
Respondent.

Motion to strike portions of respondent's brief denied.

2 Mo. No. 2014-120
The People &c.,
Respondent,
v.
Anthony Grigg,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2014-135
Kerry Hatch,
Respondent,
v.
Edward Hatch,
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.

4 Mo. No. 2014-167
In the Matter of Daniel Holmes,
Appellant,
v.
Brian Fischer, &c.,
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2014-128
HSBC Bank USA, National Association, &c.,
Respondent,
v.
Gregory Sage,
Appellant,
et al.,
Defendants.

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.

3 Mo. No. 2014-124
Jean C. Jacobs,
Appellant,
v.
Stephen J. Mazzei Jr.,
et al.,
Respondents.
(And A Third-Party Action).

Motion for leave to appeal dismissed as untimely (see CPLR 5513[b]; 2103[b][6]).

4 Mo. No. 2014-140
In the Matter of Hannah L. et al.

Erie County Department of Social Services,
Respondent;
Dwayne L.,
Appellant.

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

4 Mo. No. 2014-241
In the Matter of Hannah L. et al.

Erie County Department of Social Services,
Respondent;
Amanda L.,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2014-129
The People &c.,
Respondent,
v.
Steven Lashway,
Appellant.

Motion for leave to appeal granted.

Mo. No. 2014-103
In the Matter of Jorge L. Linares,
Appellant,
v.
Andrea W. Evans, &c.,
Respondent.

Motion for leave to appeal granted.

1 Mo. No. 2014-141
In the Matter of Karen Matseoane, Deceased.
Karen Matseoane,
Respondent,
v.
Subtle Engineering Company,
Appellant.

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.

3 Mo. No. 2014-169
The People &c. ex rel. Scott Myers,
Appellant,
v.
Michael Spitz,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2014-136
The People &c.,
Respondent,
v.
Roy E. Nelmes,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2014-168
In the Matter of Rosalie O. (Anonymous).

Motion for leave to appeal denied.

Rozanna M. (Anonymous), et al.,
Appellants;
Rosalie O. (Anonymous),
Respondent.

2 Mo. No. 2014-166
The People &c.,
Respondent,
v.
Thomas Reede,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2014-121
The People &c.,
Respondent,
v.
Gabriel Romero,
Appellant.

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

3 Mo. No. 2014-134
In the Matter of Luis Rosales,
Appellant,
v.
Albert Prack, &c.,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2014-174
In the Matter of Sitara Saleem,
Appellant,
v.
Waqar Ahmed Chaudhry,
Respondent.
(And Another Proceeding.)

Motion for leave to appeal denied.

4 Mo. No. 2014-160
Adele Seubert,
 Appellant,
et al.,
 Plaintiff,
 v.
John D. Marchioni et al.,
 Respondents.

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

2 Mo. No. 2014-147
In the Matter of Walter H. Taurins,
 Appellant,
 v.
Ellen S. Taurins,
 Respondent.

Motion for reargument of motion for leave to appeal denied.

3 Mo. No. 2014-151
In the Matter of Victor K. Thomas,
 Appellant,
 v.
Department of Corrections and Community
Supervision, et al.,
 Respondents.

Motion for reconsideration of this Court's January 9, 2014 dismissal order denied.

2 Mo. No. 2014-133
In the Matter of Thomas Thomches,
 Appellant,
 v.
Andrea Evans, &c.,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2014-138
Lisa Thrun et al.,
 Appellants,
 v.
Andrew M. Cuomo, &c., et al.,
 Respondents.

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

3 Mo. No. 2014-146
In the Matter of Ben Gary Treistman,
Appellant,
v.
Suzanne Mary Cayley,
Respondent.
(And Another Related Proceeding.)

Motion for leave to appeal dismissed upon the ground that it does not lie (see CPLR 5602[a]).
Motion for poor person relief dismissed as academic.

2 Mo. No. 2014-159
Vincent Volpe,
Appellant,
v.
Hudson View Associates, LLC,
et al.,
Respondents,
et al.,
Defendant.

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

2 Mo. No. 2014-116
In the Matter of Westchester County
Correction Officers Benevolent Association,
Inc.,
Appellant,
v.
Kevin M. Cheverko, &c., et al.,
Respondents.
(Index No. 12484/11)

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.

2 Mo. No. 2014-117
In the Matter of Westchester County
Correction Officers Benevolent Association,
Inc.,
Appellant,
v.
Kevin M. Cheverko, &c., et al.,
Respondents.
(Index No. 13750/11)

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.