

October 25, 2016

CASES

1 No. 221 SSM 27
The Bank of New York Mellon, solely as
Securities Administrator for J.P. Morgan
Mortgage Acquisition Trust 2006-WMC4,
Respondent,
v.
WMC Mortgage, LLC,
Defendant,
J.P. Morgan Mortgage Acquisition
Corporation, et al.,
Appellants.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative. The motion of defendants-appellants, insofar as it sought to dismiss plaintiff's third and fourth causes of action and so much of the seventh cause of action as is based on breach of J.P. Morgan Mortgage Acquisition Corporation's warranties, was properly denied. Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.

2 No. 128
The People &c.,
Appellant,
v.
Nnamdi Clarke,
Respondent.

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

3 No. 152
In the Matter of Rafael Cortorreal,
Appellant,
v.
Anthony J. Annucci, &c.,
Respondent.

Order reversed, without costs, petition granted, respondent's determination annulled and respondent directed to expunge all references to the proceeding from petitioner's files.
Opinion by Judge Fahey.
Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam and Garcia concur.
Judge Stein took no part.

2 No. 127
The People &c.,
 Respondent,
 v.
Steven Henderson,
 Appellant.

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

1 No. 154
The People &c.,
 Respondent,
 v.
Ronel Joseph,
 Appellant.

Order modified by vacating the conviction on the
count of burglary in the second degree, dismissing
that count in the indictment, and remitting to
Supreme Court, New York County, for resentencing,
and, as so modified, affirmed, in a memorandum.
Chief Judge DiFiore and Judges Pigott, Rivera,
Abdus-Salaam, Fahey and Garcia concur.
Judge Stein dissents and votes to affirm, in an
opinion.

1 No. 220 SSM 22
In the Matter of Diane Mendez,
 Respondent,
 v.
New York City Department of Education, et
al.,
 Appellants.

On review of submissions pursuant to section 500.11
of the Rules, order, insofar as appealed from
annulling the determination to terminate petitioner's
probationary employment, reversed, without costs, so
much of the petition as sought to annul that
determination dismissed, and certified question
answered in the negative. Petitioner did not establish
that the termination of her probationary employment
"was for a constitutionally impermissible purpose,
violative of a statute, or done in bad faith" (Matter of
Frasier v Board of Educ. of City School Dist. of City
of N.Y., 71 NY2d 763, 765 [1988]).
Chief Judge DiFiore and Judges Pigott, Rivera,
Abdus-Salaam, Stein, Fahey and Garcia concur.

4 No. 158
Raymond Pink, et al.,
 Respondents,
 v.
Rome Youth Hockey Association, Inc.,
 Appellant,
et al.,
 Defendants.

Order, insofar as appealed from, reversed, with costs, defendant Rome Youth Hockey Association Inc.'s motion for summary judgment dismissing the complaint as against it granted and certified question answered in the negative, in a memorandum. Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam, Stein and Garcia concur. Judge Fahey took no part.

1 No. 131
Three Amigos SJL Rest., Inc., Doing Business
as The Cheetah Club, et al.,
 Plaintiffs,
Dominica O'Neill, et al.,
 Appellants,
 v.
CBS News Inc., et al.,
 Respondents.

Order, insofar as appealed from, affirmed, with costs. Opinion by Judge Pigott. Judges Rivera, Abdus-Salaam, Fahey and Garcia concur. Judge Stein dissents in an opinion. Chief Judge DiFiore took no part.

4 No. 153
Adam Villar,
 Respondent,
 v.
Timothy B. Howard, Erie County Sheriff,
 Appellant.

Order, insofar as appealed from, affirmed, with costs, and certified question answered in the affirmative. Opinion by Judge Stein. Chief Judge DiFiore and Judges Rivera, Abdus-Salaam and Garcia concur. Judges Pigott and Fahey took no part.

4 No. 147
The People &c.,
 Respondent,
 v.
Charles K. Wilson,
 Appellant.

Order, insofar as appealed from, affirmed. Opinion by Judge Pigott. Chief Judge DiFiore and Judges Rivera, Abdus-Salaam, Stein and Garcia concur. Judge Fahey took no part.

3 No. 130
In the Matter of Yoga Vida NYC, Inc.,
 Appellant.
Commissioner of Labor,
 Respondent.

Order reversed, with costs, and matter remitted to the Appellate Division, Third Department, with directions to remand to respondent Commissioner of Labor for further proceedings in accordance with the memorandum herein.

Chief Judge DiFiore and Judges Pigott, Abdus-Salaam and Garcia concur.

Judge Fahey dissents and votes to affirm in an opinion in which Judge Rivera concurs.

Judge Stein took no part.

MOTIONS

2 Mo. No. 2016-747
In the Matter of 111-35 75th Ave. Owners
Corp.,
 Respondent,
 v.
Sarah Hendrix,
 Appellant,
et al.,
 Respondents.

Motion for reargument of motion for leave to appeal denied.

3 Mo. No. 2016-760
In the Matter of Advanced Therapy, OT, PT,
SLP, Psychologist, Registered Professional
Nurse (RN), PLLC,
 Appellant,
 v.
New York State Education Department,
 Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that no substantial constitutional question is directly involved. Motion for leave to appeal denied.

3 Mo. No. 2016-752
Amcat Global, Inc.,
 Respondent,
 v.
Greater Binghamton Development, LLC,
 Appellant.

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

3 Mo. No. 2016-739
In the Matter of Kevin Bailey,
 Appellant,
 v.
Albert Prack, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2016-725
The People &c.,
Respondent,
v.
Oliver Berry,
Also Known as Chris Tucker,
Appellant.

Motion for reargument dismissed as untimely (see Rules of Ct of Appeals [22 NYCRR] § 500.24[b]).

2 Mo. No. 2016-771
Andrew Biaglow, et al.,
Appellants-Respondents,
v.
Elite Property Holdings, LLC, et al.,
Respondents-Appellants,
et al.,
Defendant.

Motions 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. 2016-717
Birch Tree Partners, LLC,
Appellant,
v.
Windsor Digital Studio, LLC, et al.,
Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2016-744
S.B. &c., et al.,
Appellants,
v.
Caledonia-Mumford Central School,
Respondent.

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

2 Mo. No. 2016-720
Juan Chavez, &c.,
Appellant,
v.
State of New York,
Respondent.

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

1 Mo. No. 2016-985
In the Matter of City Club of New York, Inc.,
et al.,
 Appellants,
 v.
Hudson River Park Trust, Inc., et al.,
 Respondents.

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

4 Mo. No. 2016-822
In the Matter of Lindsay A. Esposito,
 Appellant,
 v.
Matthew E. Magill,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2016-814
In the Matter of Mason F. et al., &c.

Ulster County Department of Social Services,
 Respondent;
Katlin G.,
 Appellant;
Louis F.,
 Respondent.
(And Another Proceeding.)

Motion for leave to appeal denied.

1 Mo. No. 2016-756
Augusto Figueroa,
 Appellant,
 v.
Andrew Mandel,
 Respondent.

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

2 Mo. No. 2016-755
George Galbraith,
Appellant,
v.
Westchester County Health Care Corporation,
Respondent.

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

3 Mo. No. 2016-688
In the Matter of Jeffrey Gawrys,
Appellant.
Medical Delivery Services,
Respondent.
Commissioner of Labor,
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.

1 Mo. No. 2016-724
Zoya Griffith,
Appellant,
v.
ETH NEP, L.P. et al.,
Respondents.

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

1 Mo. No. 2016-772
Wally G., an Infant, by His Mother and
Natural Guardian, Yoselin T.,
Appellant,
v.
New York City Health and Hospitals
Corporation (Metropolitan Hospital),
Respondent.

Motion for reargument denied with one hundred dollars costs and necessary reproduction disbursements.

2 Mo. No. 2016-730
The People &c.,
Respondent,
v.
Milton Hamlin,
Appellant.

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

2 Mo. No. 2016-784
In the Matter of Ronald Hollander,
 Appellant,
 v.
Suffolk County Department of Social
Services, Child Support Enforcement Bureau,
 Respondent,
et al.,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2016-775
Indus PVR LLC,
 Respondent,
 v.
Maa-Sharda, Inc.,
 Appellant,
Roshan Hospitality, Inc., et al.,
 Defendants.

Motion, insofar as it seeks leave to appeal from the Appellate Division order affirming the Supreme Court judgment, denied; motion for leave to appeal otherwise dismissed upon the ground that the remaining order sought to be appealed from does not finally determine the action within the meaning of the Constitution.

2 Mo. No. 2016-690
Kevin Ioveno, &c. et al.,
 Appellants,
 v.
Jason Schwartz et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2016-812
In the Matter of Irina G. Maddox,
 Appellant,
 v.
Kadi A. Maddox et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2016-767
In the Matter of Arif Nizamuddeen,
Appellant,
v.
New York City Transit Authority, &.,
Respondent.

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

1 Mo. No. 2016-685
Alexander Razinski et al.,
Appellants,
v.
136 Field Point Circle Holding Company
LLC,
Respondent.

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

1 Mo. No. 2016-726
In the Matter of Wardell Richardson,
Respondent,
v.
New York City Housing Authority,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2016-677
The People &c.,
Respondent,
v.
Abraham S. Sabin,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2016-682
Star Meth Corp.,
Appellant,
v.
Stuart Steiner et al.,
Respondents.

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

2 Mo. No. 2016-761
In the Matter of Christian Urena,
 Appellant,
 v.
Anthony Annucci, &c.,
 Respondent.

Motion for reargument of motion for leave to appeal
denied.

2 Mo. No. 2016-691
Dashana Williams, &c. et al.,
 Appellants,
 v.
City of New York,
 Respondent.

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

4 Mo. No. 2016-729
The People &c.,
 Respondent,
 v.
David A. Witherspoon,
 Appellant.

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