

February 13, 2020

CASES

3 No. 6
In the Matter of Bruce D. Bohlen, et al.,
 Respondents,
 v.
Thomas P. DiNapoli, &c., et al.,
 Appellants.

Judgment reversed, with costs, and petition
dismissed.
Opinion by Judge Fahey.
Chief Judge DiFiore and Judges Rivera, Stein,
Garcia, Wilson and Feinman concur.

 No. 36
CIT Bank N.A.,
 Respondent,
 v.
Pamela Schiffman, et al.,
 Appellants,
et al.,
 Defendants.

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, Wilson and Feinman concur.

1 No. 11
The People &c.,
 Respondent,
 v.
Gerald Francis,
 Appellant.

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

2 No. 9
In the Matter of Tina Leggio,
 Appellant,
 v.
Sharon Devine, &c. et al.,
 Respondents.

Judgment affirmed, without costs.
Opinion by Judge Wilson.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Garcia and Feinman concur.

4 No. 35 SSM 31
Tracy Preston, &c.,
 Appellant,
 v.
APCH, Inc. et al.,
 Respondents,
et al.,
 Defendant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs. Decedent’s work as a welder during the “normal manufacturing process” of fabricating rotor components for air preheaters did not involve “erection, demolition, repairing, altering, painting, cleaning or pointing” of a building or structure (Jock v Fien, 80 NY2d 965, 968 [1992]; Labor Law § 240 [1]).
Chief Judge DiFiore and Judges Rivera, Stein, Garcia, Wilson and Feinman concur.
Judge Fahey took no part.

 No. 10
The People &c.,
 Respondent,
 v.
Ganesh Ramlall,
 Appellant.

Order, insofar as appealed from, affirmed, in a memorandum.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

 No. 7
The People &c.,
 Respondent,
 v.
Damon Wheeler,
 Appellant.

Order reversed and accusatory instrument dismissed, in a memorandum.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

MOTIONS

1 Mo. No. 2019-802
In the Matter of Chandler A. et al., &c.

Carlton A.,
Appellant;
Administration for Children's Services,
Respondent.

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

3 Mo. No. 2019-827

Bank of America, N.A.,
Appellant,
v.
Burton Gulnick Jr., &c.,
Respondent,
et al.,
Defendants.

Motion for leave to appeal denied.

2 Mo. No. 2020-65

The People &c.,
Respondent,
v.
Jose L. Bisoño,
Appellant.

Motion for assignment of counsel granted and Paul Skip Laisure, Esq., Appellate Advocates, 111 John Street, 9th Floor, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.

3 Mo. No. 2019-867

Edward Carter, et al.,
Appellants,
v.
Incorporated Village of Ocean Beach et al.,
Respondents,
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.

1 Mo. No. 2019-895
Theo Chino et al.,
Appellants,
v.
New York Department of Financial Services
et al.,
Respondents.

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

1 Mo. No. 2019-735
Thomas H. Christophel, &c.,
Appellant,
v.
New York-Presbyterian/Weil Medical
College of Cornell University Anesthesiology
Residence Training Program, et al.,
Defendants,
Bridge Back to Life,
Respondent.
(And a Third-Party Action.)

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

2 Mo. No. 2019-860
Adam Comora et al.,
Appellants,
v.
Martin Franklin, et al.,
Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2019-719
Crystal Run Associates, LLC,
Appellant,
v.
State of New York,
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2019-1026
The People &c. ex rel. Miguel DeFreitas,
Appellant,
v.
Jaifa Callado, &c.,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2019-1011
Alexander C.E.,
Respondent,
v.
Anne Y.E.,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2019-889
In the Matter of Leonard S. Edmonds,
Respondent,
v.
Haneefah Lewis,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2020-85
The People &c.,
Respondent,
v.
Quentin F.,
Appellant.

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.

2 Mo. No. 2020-90
Freedom Mortgage Corporation,
Appellant,
v.
Herschel Engel,
Respondent,
et al.,
Defendants.

Motion by Legal Services NYC, et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed. The brief must be submitted in digital format within seven days.

1 Mo. No. 2019-703
Margit Frenk,
Appellant,
v.
Yris Rabenou Solomon, &c., et al.,
Respondents.

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

1 Mo. No. 2019-1051
In the Matter of A'Nyia P.G., &c.

Qubilah C.T.G.,
Appellant;
Administration for Children's Services,
Respondent.

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

2 Mo. No. 2019-818
Felix Glaubach, &c.,
Appellant,
v.
David Slifkin et al.,
Respondents,
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.

2 Mo. No. 2019-819
Felix Glaubach, &c.,
Appellant,
v.
David Slifkin, et al.,
Defendants,
Personal Touch Holding Corp., et al.,
Respondents.

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. 2019-984
In the Matter of S.H. et al., &c.

Patricia W.,
Appellant;
Administration for Children's Services,
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2019-502
In the Matter of the Judicial Settlement of the
Intermediate Account of HSBC Bank USA,
N.A., &c.

HSBC Bank USA, N.A.,
 Respondent;
W.A. Read Knox, et al.,
 Appellants,
et al.,
 Respondents.

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

3 Mo. No. 2019-1072
In the Matter of Susan II.,
 Respondent,
 v.
Laura JJ.,
 Appellant,
et al.,
 Respondent.

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

3 Mo. No. 2019-803
In the Matter of the Claim of Carmen Issayou,
 Appellant,
 v.
Issayuou Inc. et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2019-947
In the Matter of Julius K.,
 Appellant,
 v.
Ileana K.,
 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.

4 Mo. No. 2019-897
In the Matter of Alexander Kates,
 Appellant,
 v.
County of Monroe, et al.,
 Respondents.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that denied petitioner's motion for poor person relief, dismissed upon the ground that such portion of the order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.
Motion for poor person relief dismissed as academic.

4 Mo. No. 2019-896
In the Matter of Andrew R. Komarek,
 Appellant,
Ankom Development LLC,
 Intervenor-Petitioner,
 v.
Planning Board of Middlesex, et al.,
 Respondents.

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

4 Mo. No. 2019-977
In the Matter of Amanda May Landenberg,
 Respondent,
 v.
Edward Bruce Akens,
 Respondent,
Cynthia Louise Stevens,
 Appellant.

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

4 Mo. No. 2019-1126
The People &c. ex rel. Jerry Lineberger,
 Appellant,
 v.
New York State Department of Corrections
and Community Supervision,
 Respondent.

Motion for reargument of motion for leave to appeal &c. denied.
Motion for poor person relief dismissed as academic.

3 Mo. No. 2019-1052
In the Matter of Justin M.,
Respondent,
v.
Valencia N.,
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. 2019-890
In the Matter of Myra Mayo,
Appellant,
v.
New York State Division of Tax Appeals,
&c., et al.,
Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Motion for ancillary relief dismissed upon the ground that this Court does not have jurisdiction to entertain it (see NY Const art VI, § 3).

2 Mo. No. 2019-900
In the Matter of Sean McCarthy,
Appellant,
v.
Timothy Sini, &c.,
Respondent.

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

1 Mo. No. 2020-75
The People &c.,
Appellant,
v.
Darrin McGhee,
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. 2019-825
Matthew McGuckin,
Respondent,
v.
Privilege Underwriters Reciprocal Exchange,
Appellant.

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

4 SSD 4
The People &c. ex rel. Gary H. Moore,
Appellant,
v.
Superintendent of Collins Correctional
Facility, et al.,
Respondents.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no appeal lies to this Court from an order of an individual Justice of the Appellate Division (see NY Const, art VI, § 3[b]; CPLR 5601).

2 Mo. No. 2019-823
In the Matter of Gabrielle G. Moreno,
Respondent,
v.
Hector Ramos,
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.

1 Mo. No. 2019-983
In the Matter of Melissa N.,
Respondent,
v.
Jeffrey B.,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2019-892
In the Matter of NYC Health + Hospitals,
Appellant,
v.
Organization of Staff Analysts, et al.,
Respondents.

Motion for leave to appeal denied.

 SSD 6
NYCTL 1998-2 Trust et al.,
Respondents,
v.
Kris Gouden,
Appellant,
Charles Serio, et al.,
Defendants.
Posr A. Posr,
Nonparty-Appellant.

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, Second Department, upon the ground that a direct appeal does not lie when questions other than the constitutional validity of a statutory provision are involved (see NY Const, art VI, §§ 3[b][2], 5[b]; CPLR 5601[b][2]).

1 Mo. No. 2019-826
Chinwe Ofor, &c.,
 Appellant,
 v.
Mercy Medical Center, et al.,
 Respondents,
et al.,
 Defendant.

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

2 Mo. No. 2019-1016
In the Matter of Orange County Department
of Social Services, &c.,
 Respondent,
 v.
Mark Marvin,
 Appellant.

Motion, insofar as it seeks leave to appeal from the Appellate Division order denying the motion for reargument or leave to appeal, dismissed upon the ground that such order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied. Motion for poor person relief dismissed as academic.

3 Mo. No. 2019-729
Bryan D. Orser,
 Respondent,
 v.
Wholesale Fuel Distributors CT, LLC,
 Appellant.

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

1 SSD 5
In the Matter of Alonzo Owens,
 Appellant,
 v.
New York City Human Resources
Administration, &c.,
 Respondent.

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

1 Mo. No. 2020-107
In the Matter of Randy Peyton, &c.,
 Respondent,
Hillel Hoffman, et al.,
 Intervenors-Respondents,
 v.
New York City Board of Standards and
Appeals, et al.,
 Appellants.

Motion by Public School 163 School Leadership Team et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served, an original and nine copies filed, and the brief submitted in digital format within seven days.

2 Mo. No. 2019-822
In the Matter of Ana Ramos,
 Respondent,
 v.
Hector Ramos,
 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. 2019-843
In the Matter of W. Charles Robinson,
 Appellant,
 v.
Thomas P. DiNapoli, &c., et al.,
 Respondents.

Motion, insofar as it seeks leave to appeal as against respondent Thomas P. DiNapoli, &c. denied; motion for leave to appeal otherwise dismissed upon the ground that the order sought to be appealed from does not finally determine an action or proceeding as to the remaining parties within the meaning of the Constitution.

4 Mo. No. 2019-1010
In the Matter of the Application for Discharge
of Joseph S., &c.,
 Appellant,
 v.
State of New York, et al.,
 Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2019-732
In the Matter of the Foreclosure of Tax Liens,
&c.

County of Wayne,
 Respondent,
 v.
Paul J. Schenk, Jr., et al.,
 Appellants.

On the Court's own motion, appeal dismissed, without costs, upon the ground that the orders appealed from do not finally determine the proceeding within the meaning of the Constitution. Motion for leave to appeal dismissed upon the ground that the orders sought to be appealed from do not finally determine the proceeding within the meaning of the Constitution.

2 Mo. No. 2019-707

Pearl Shifer,
 Respondent,
 v.
David Shifer,
 Defendant,
Sara Stern, &c.,
 Appellant,
et al.,
 Defendants.

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 with one hundred dollars costs and necessary reproduction disbursements.

2 Mo. No. 2020-56
In the Matter of Peter T., Jr.

Westchester County Department of Social
Services,
 Respondent;
Shay Shay P., &c.,
 Appellant,
et al.,
 Respondent.
(App. Div. No. 2019-04258)

Motion for permission to withdraw motion for leave to appeal granted and the motion is marked withdrawn.

2 Mo. No. 2020-57
In the Matter of Peter T., Jr.

Westchester County Department of Social
Services,
 Respondent;
Shay S.P.,
 Appellant,
et al.,
 Respondent.
(App. Div. Nos. 2017-11931, 2018-00158,
2018-04147 and 2018-09769)

Motion for permission to withdraw motion for leave
to appeal granted and the motion is marked
withdrawn.

3 Mo. No. 2020-33
In the Matter of Marian T.

Lauren R. et al.,
 Respondents;
Marian T.,
 Appellant.

Motion by Autistic Self Advocacy Network, et al. for
leave to file a brief amici curiae on the appeal herein
granted and the proposed brief is accepted as filed.
Two copies of the brief must be served, an original
and nine copies filed, and the brief submitted in
digital format within seven days.

3 Mo. No. 2019-782
In the Matter of Clinton E. Tannis,
 Appellant,
v.
Anthony J. Annucci, &c.,
 Respondent.

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

2 Mo. No. 2019-821
In the Matter of Application of The Innocence
Project, Inc., &c.,
 Appellant,
Grievance Committee for the Tenth Judicial
District, et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2019-902
In the Matter of Application of The Innocence
Project, Inc., &c.,
Appellant,
Grievance Committee for the Tenth Judicial
District, et al.,
Respondents.

Motion by the Associated Press, et al. for leave to
appear amici curiae on the motion for leave to appeal
herein granted and the brief is accepted as filed.

2 Mo. No. 2019-870
The People &c.,
Respondent,
v.
Brian Tuitt,
Appellant.

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

4 Mo. No. 2019-967
In the Matter of Kayla V.

Oneida County Department of Social
Services,
Respondent;
Craig V.,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2019-832
In the Matter of the Claim of Donna Velano,
Respondent,
v.
Kingston Block & Masonry Supply, LLC et
al.,
Appellants.
Workers' Compensation Board,
Respondent.

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

4 SSD 7
The Walton & Willet Stone Block, LLC, et
al.,
 Respondents,
 v.
Camelot Lodge, LLC,
 Appellant,
City of Oswego Community Development
Office 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.

1 Mo. No. 2019-676
Robert E. Wilson, III,
 Appellant,
 v.
Daniel Valente Dantas, et al.,
 Respondents,
Opportunity Equity Partners, L.P.,
 Defendant.

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

1 SSD 2
In the Matter of Blake Wingate,
 Appellant,
 v.
Lynn Fahey, &c.,
 Respondent.

Appeal dismissed without costs, by the Court sua
sponte, upon the ground that it does not lie (see
CPLR 5601).

1 SSD 1
The People &c. ex rel. Diane Word,
 Appellant,
 v.
State of New York, &c.,
 Respondent.

Appeal dismissed without costs, by the Court sua
sponte, upon the ground that the order appealed from
does not finally determine the proceeding within the
meaning of the Constitution.