

State of New York
Court of Appeals

November 23, 2020

Decisions
CASES

3 No. 94 SSM 23
In the Matter of Roland Green,
 Respondent,
 v.
Darwin LaClair, &c.,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, without costs (*see People ex rel. Negron v Superintendent, Woodbourne Corr. Facility*, __ NY3d __ [decided today]). Judges Rivera, Stein, Garcia, Wilson and Feinman concur. Chief Judge DiFiore and Judge Fahey dissent for reasons stated in the dissenting opinion in *People ex rel. Negron v Superintendent, Woodbourne Corr. Facility* (__ NY3d __ [Fahey, J. dissenting] [decided today]).

3 No. 74
The People &c. ex rel. Fred Johnson,
 Appellant,
 v.
Superintendent, Adirondack Correctional
Facility, et al.,
 Respondents.

Order modified, without costs, by converting the proceeding into a declaratory judgment action and granting judgment in accordance with the opinion herein and, as so modified, affirmed. Opinion by Judge Fahey. Chief Judge DiFiore and Judges Stein, Garcia and Feinman concur. Judge Rivera dissents in an opinion. Judge Wilson dissents in a separate dissenting opinion.

2 No. 73
The People &c. ex rel. Chance McCurdy,
 Appellant,
 v.
Warden, Westchester County Correctional
Facility, &c., et al.,
 Respondents.

Order affirmed, without costs. Opinion by Judge Stein. Chief Judge DiFiore and Judges Garcia and Feinman concur. Judge Fahey dissents and votes to reverse in an opinion in which Judges Rivera and Wilson concur.

3 No. 76
The People &c. ex rel. Raymond Negron,
 Respondent,
 v.
Superintendent, Woodbourne Correctional
Facility,
 Appellant.

Order affirmed, without costs.
Opinion by Judge Garcia.
Judges Rivera, Stein, Wilson and Feinman concur.
Judge Fahey dissents in an opinion in which Chief
Judge DiFiore concurs.

2 No. 75
The People &c. ex rel. Angel Ortiz,
 Appellant,
 v.
Dennis Breslin, &c. et al.,
 Respondents.

Order modified, without costs, by converting the
proceeding into a declaratory judgment action and
granting judgment in accordance with the opinion
herein and, as so modified, affirmed.
Opinion by Judge Fahey.
Chief Judge DiFiore and Judges Stein, Garcia and
Feinman concur.
Judge Rivera dissents in an opinion.
Judge Wilson dissents in a separate dissenting
opinion.

3 No. 49
In the Matter of Marian T.

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

Order affirmed, without costs.
Opinion by Chief Judge DiFiore.
Judges Stein, Fahey, Garcia and Feinman concur.
Judge Wilson concurs in result in an opinion.
Judge Rivera dissents in an opinion.

MOTIONS

1 Mo. No. 2020-578
342 East 50th Street, LLC,
 Respondent,
 v.
Deborah Privitello,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2020-529
In the Matter of Ally Financial Inc.,
 Respondent,
 v.
Bill's Towing Service, Inc.,
 Appellant,
et al.,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2020-547
In the Matter of Anonymous, &c.,
 Appellant;
Attorney Grievance Committee of the Fourth
Judicial Department,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2020-605
The People &c.,
 Respondent,
 v.
Abass Bangura,
 Appellant.

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

3 Mo. No. 2020-562
Beneficial Homeowner Service Corporation,
 Appellant,
 v.
Heirs at Large of Ramona E. Thwaites, &c., et
al.,
 Respondents,
et al.,
 Defendants.

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

1 Mo. No. 2020-553
Alda Bonilla,
 Appellant,
 v.
Balla Bathily, et al.,
 Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2020-554
Alda Lizzette Bonilla Arzu,
 Appellant,
 v.
Kevin Dana Gratt Associates,
 Respondent.

Motion for leave to appeal denied.

 Mo. No. 2020-555
Alda Lizzette Bonilla Arzu,
 Appellant,
 v.
Julia Belitsky,
 Respondent.

Motion for leave to appeal dismissed upon the ground that it does not lie (*see* CPLR 5602 [a]).

1 Mo. No. 2020-556
Alda Bonilla,
 Appellant,
 v.
Supreme Court of the State of New York,
Appellate Division, Second Department,
 Respondent.

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. 2020-528
The People &c.,
Respondent,
v.
Roland Braxton,
Appellant.

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

4 Mo. No. 2020-603
Danen D. Danielak,
Appellant,
v.
State of New York,
Respondent.

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

2 Mo. No. 2020-535
Carmine Dell Aquila,
Respondent,
v.
Thomas Rubio, &c. et al.,
Appellants,
et al.,
Defendant.

Motion for leave to appeal denied.

4 Mo. No. 2020-592
The People &c.,
Respondent,
v.
Michael Fedeson,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2020-651
In the Matter of Roland Green,
Respondent,
v.
Darwin LaClair, &c.,
Appellant.

Motion to vacate stay granted.

3 Mo. No. 2020-700
The People &c. ex rel. Fred Johnson,
 Appellant,
 v.
Superintendent, Adirondack Correctional
Facility, et al.,
 Respondents.

Motion to strike granted to the extent the challenged
extra-judicial material in appellant's addendum and
reply brief to which objection is taken is deemed
stricken.

2 Mo. No. 2020-590
Irimi Laskaratos, &c.,
 Appellant,
 v.
Bay Ridge Hoyt Lender, LLC, et al.,
 Respondents.

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

2 Mo. No. 2020-591
Lebov, LLC,
 Appellant,
 v.
State of New York,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2020-571
The People &c.,
 Respondent,
 v.
Eddy M.,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2020-589
Moustapha Magassouba,
 Appellant,
 v.
Cascione, Purcigliotti and Galluzzi P.C., et
al.,
 Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2020-587
In the Matter of the Claim of Jacqueline
McKay,
 Appellant,
 v.
Southampton Hospital et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2020-574
Merchant Factors Corp.,
 Respondent,
 v.
David Cleary
 Defendant,
Banyan Mezzanine Fund II, L.P.,
 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.

1 Mo. No. 2020-520
Brian Mooney,
 Appellant,
 v.
BP/CG Center II, LLC, et al.,
 Respondents.
(And Third-Party Actions.)

Motion for leave to appeal 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. 2020-606
In the Matter of Northern Manhattan Is Not
For Sale, et al.,
 Appellants,
 v.
City of New York,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2020-599
The People &c. ex rel. Angel Ortiz,
Appellant,
v.
Dennis Breslin, &c. et al.,
Respondents.

Motion to strike granted to the extent the challenged extra-judicial material in appellant's compendium and brief to which objection is taken is deemed stricken.

2 Mo. No. 2020-565
The People &c.,
Respondent,
v.
Tedy Pierre,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2020-585
The People &c.,
Respondent,
v.
Corey R.,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2020-601
In the Matter of Red Wing Properties, Inc.,
Respondent,
v.
Town of Rhinebeck, et al.,
Appellants.

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

2 Mo. No. 2020-596
The People &c.,
Respondent,
v.
Benedicto Rivas,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2020-530
In the Matter of Charles Rochester, &c.,
 Appellant,
 v.
City of New York Police Department-FOIL et
al.,
 Respondents.

Motion for reargument of motion for leave to appeal
denied.

3 Mo. No. 2020-521
Kim E. Schoch,
 Respondent,
 v.
Lake Champlain OB-GYN, P.C.,
 Appellant.

Motion for leave to appeal granted.

3 Mo. No. 2020-639
Kim E. Schoch,
 Respondent,
 v.
Lake Champlain OB-GYN, P.C.,
 Appellant.

Motion by Samaritan Medical Center et al. for leave
to appear amici curiae on the motion for leave to
appeal herein granted and the brief is accepted as
filed.

4 Mo. No. 2020-531
TRM Architecture, Design and Planning,
P.C.,
 Appellant,
 v.
Destiny USA Holdings, LLC et al.,
 Respondents.

Motion for reargument of motion for leave to appeal
denied.

3 Mo. No. 2020-604
Wells Fargo Bank, N.A.,
 Respondent,
 v.
Randall Oppitz, &c.,
 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.

2 Mo. No. 2020-572
Robert Wetter et al.,
 Appellants,
 v.
Northville Industries Corp. et al.,
 Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2020-540
In the Matter of White Plains Fine Wine &
Spirits LLC,
 Appellant,
 v.
New York State Liquor Authority, et al.,
 Respondents.

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

4 Mo. No. 2020-582
Glasco Wright,
 Appellant,
 v.
State of New York,
 Respondent.

Motion for leave to appeal denied.