

State of New York
Court of Appeals

October 20, 2020

Decisions
CASES

1 No. 41
The People &c.,
 Respondent,
 v.
Jonathan Batticks,
 Appellant.

Order affirmed.
Opinion by Chief Judge DiFiore.
Judges Stein, Garcia and Feinman concur.
Judge Wilson dissents in an opinion in which Judges
Rivera and Fahey concur.

 No. 39
Tobias Bermudez Chavez, et al.,
 Respondents,
 v.
Occidental Chemical Corporation, &c.,
 Appellant.

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 record submitted,
certified questions answered in the affirmative.
Opinion by Judge Stein.
Chief Judge DiFiore and Judges Garcia and Feinman
concur.
Judge Rivera dissents in part in an opinion in which
Judges Fahey and Wilson concur.

 No. 93
Jesus Ferreira,
 Appellant,
 v.
City of Binghamton et al.,
 Respondents.

Certification of a question 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. 44
Patrick Lynch, &c. et al.,
 Appellants,
 v.
City of New York, et al.,
 Respondents.

Order reversed, with costs, and judgment of Supreme
Court, New York County, reinstated.
Opinion by Judge Fahey.
Judges Stein, Garcia, Wilson and Feinman concur.
Judge Rivera dissents and votes to affirm in an
opinion in which Chief Judge DiFiore concurs.

MOTIONS

2 Mo. No. 2020-447

Bank of America, N.A.,
Respondent,

v.

Gerald Terry,
Appellant,

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. 2020-445

In the Matter of Board of Education of the
City School District of the City of New York,
Respondent,

v.

Shelley Jones Crooks,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2020-495

Christiana Trust, &c.,
Appellant,

v.

Himon Barua,
Respondent,

et al.,
Defendants.

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

1 Mo. No. 2020-474

The People &c. ex rel. Charu Anthony Cole,
Appellant,

v.

Warden, Rikers Island,
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.

3 Mo. No. 2020-432
Farm Family Casualty Insurance Company,
Appellant,
v.
George B. Henderson, et al.,
Respondents.

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

2 Mo. No. 2020-453
Joseph Giannone, Jr. et al.,
Appellants,
v.
City of New York,
Respondent.

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

2 Mo. No. 2020-486
In the Matter of Michael H.,
Respondent,
v.
Kristen L.,
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.

2 Mo. No. 2020-438
Town of Hempstead, &c.,
Respondent,
v.
AJM Capital II, LLC,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2020-470
In the Matter of Aliah J.

Administration for Children's Services,
Respondent;
Candice J.,
Appellant.
(And Two Other Proceedings.)

Motion, insofar as it seeks leave to appeal from the July 2019 Appellate Division order as against petitioner Administration for Children's Services, dismissed as untimely (*see* CPLR 5513 [b]; 2103 [b] [2]); motion for leave to appeal otherwise denied. Motion for poor person relief dismissed as academic.

3 Mo. No. 2020-380
In the Matter of the Claim of Thomas
Johnson,
 Appellant,
 v.
City of New York,
 Respondent.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal granted.

1 Mo. No. 2020-440
The People &c.,
 Respondent,
 v.
Devonte Kelley,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2020-493
The People &c.,
 Respondent,
 v.
Abu Khan,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2020-464
In the Matter of KPMG LLP,
 Appellant,
 v.
Marc S. Kirschner, &c.,
 Respondent.

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

1 Mo. No. 2020-538
In the Matter of KPMG LLP,
 Appellant,
 v.
Marc S. Kirschner, &c.,
 Respondent.

Motion by New York State Society of CPAs 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. 2020-478
In the Matter of DeAnna LeTray,
Appellant,
v.
New York State Division of Human Rights, et
al.,
Respondents.

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

1 Mo. No. 2020-481
In the Matter of Local 621, &c., et al.,
Respondents-Appellants,
v.
New York City Department of
Transportation, et al.,
Appellants-Respondents.

Motion by appellants-respondents, insofar as it seeks leave to appeal from the November 2019 Appellate Division order, dismissed upon the ground that the order does not finally determine the proceeding/action within the meaning of the Constitution; motion for leave to appeal otherwise dismissed upon the ground that appellants-respondents are not parties aggrieved by the March 2020 Supreme Court order (*see* CPLR 5511; *Hogan v Blackburn*, 95 NY2d 845 [2000]).
Motion by respondents-appellants for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the proceeding/action within the meaning of the Constitution.

2 Mo. No. 2020-471
Kathlene Marks-Barcia, &c.,
Appellant,
v.
Village of Sleepy Hollow Ambulance Corps,
et al.,
Respondents.

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

4 Mo. No. 2020-398
Neb Morrow, III,
Appellant,
v.
State of New York,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2020-425
PFT Technology, LLC,
 Appellant,
 v.
Robert Wieser,
 Respondent.
Patrick Keelan, et al.,
 Appellants.

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

1 Mo. No. 2020-452
Prospect Funding Holdings, LLC,
 Appellant,
 v.
Shannon Paiz,
 Defendant,
Jon L. Norinsberg, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2020-475
In the Matter of the State of New York,
 Respondent,
 v.
Garfield Q.,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2020-469
In the Matter of Deborah R.,
 Respondent,
 v.
Dean E.H.,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2020-487
Bhupendra K. Shah,
Appellant,
v.
State of New York,
Respondent.

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as dismissed the appeal from that portion of the Court of Claims order denying reargument, dismissed upon the ground that such portion of the order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

2 Mo. No. 2020-494
Sharestates Investments, LLC,
Respondent,
v.
Anyekache Hercules et al.,
Respondents,
James Julius,
Appellant,
et al.,
Defendants.

Motion for reargument of motion for leave to appeal denied.

3 Mo. No. 2020-454
In the Matter of the Claim of Carol J. Sischo,
Respondent.
Safeguard Properties LLC,
Appellant.
Commissioner of Labor,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2020-457
In the Matter of Sound Shore Guild Assn.,
Inc.,
Respondent,
v.
Assessor of the Town of Riverhead,
Appellant.

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

3 Mo. No. 2020-467
In the Matter of Wayne Spence, &c., et al.,
 Appellants,
 v.
New York State Governor's Office of
Employee Relations, et al.,
 Respondents.

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

3 Mo. No. 2020-377
Paul Spinelli,
 Appellant,
 v.
Eileen B. Spinelli,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2020-492
In the Matter of Tasha Straight,
 Appellant,
 v.
John H. Grant,
 Respondent.

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

2 Mo. No. 2020-503
Macarieto I. Trayvilla, &c., et al.,
 Appellants,
 v.
Japan Airlines, &c., et al.,
 Respondents.

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.

1 Mo. No. 2020-570
In the Matter of Baby Boy W., &c.

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

Motion for reargument denied.

3 Mo. No. 2020-468
In the Matter of Amanda YY.,
 Respondent,
 v.
Ramon ZZ.,
 Appellant.

Motion for leave to appeal denied.