

State of New York
Court of Appeals

Decisions

December 14, 2021

CASES

2 No. 74
In the Matter of Larry Hallock, &c.,
 Appellant;
Grievance Committee for the Tenth Judicial
District,
 Respondent.

Order reversed, with costs, and matter remitted to the Appellate Division, Second Department, for further proceedings in accordance with the opinion herein. Opinion Per Curiam. Judges Fahey, Garcia, Wilson, Singas and Cannataro concur. Chief Judge DiFiore and Judge Rivera took no part.

1 No. 80
The People &c.,
 Appellant,
 v.
Sharon Lashley,
 Respondent.

Order reversed and case remitted to the Appellate Division, First Department, for consideration of the facts and issues raised but not determined on appeal to that Court, in a memorandum. Chief Judge DiFiore and Judges Rivera, Fahey, Garcia, Wilson, Singas and Cannataro concur.

2 No. 90 SSM 29
In the Matter of Adonnis M.

Administration for Children's Services,
 Respondent;
Kenyetta M.,
 Appellant;
Rising Ground,
 Nonparty-Respondent.

On review of submissions pursuant to section 500.11 of the Rules, appeal dismissed, without costs. There is no dispute that the issues presented are moot. We decline appellant's request to invoke the mootness exception. Chief Judge DiFiore and Judges Rivera, Fahey, Garcia, Wilson, Singas and Cannataro concur.

2 No. 75
In the Matter of Mary Sheila Malerba, &c.,
 Appellant;
Grievance Committee for the Tenth Judicial
District,
 Respondent.

Order reversed, with costs, and matter remitted to the
Appellate Division, Second Department, for further
proceedings in accordance with the opinion herein.
Opinion Per Curiam.
Judges Fahey, Garcia, Wilson, Singas and Cannataro
concur.
Chief Judge DiFiore and Judge Rivera took no part.

4 No. 91 SSM 30
The People &c.,
 Respondent,
 v.
Grace Pietrocarlo,
 Appellant.

On review of submissions pursuant to section 500.11
of the Rules, order affirmed, in a memorandum.
Chief Judge DiFiore and Judges Rivera, Fahey,
Garcia, Singas and Cannataro concur.
Judge Wilson dissents in an opinion.

4 No. 35
The People &c.,
 Respondent,
 v.
William A. Wilkins, &c.,
 Appellant.

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

MOTIONS

2 Mo. No. 2021-968
The People &c.,
 Respondent,
 v.
Peter Carman,
 Appellant.

Motion for poor person relief granted.

 Mo. No. 2021-965
Danny Donohue, &c., et al.,
 Appellants,
 v.
Andrew M. Cuomo, &c., et al.,
 Respondents,
et al.,
 Defendants.

Motion by New York State Public Employees Federation, AFL-CIO for leave to appear amicus curiae on consideration of the certified questions herein granted only to the extent that 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.
Chief Judge DiFiore took no part.

 Mo. No. 2021-967
Danny Donohue, &c., et al.,
 Appellants,
 v.
Andrew M. Cuomo, &c., et al.,
 Respondents,
et al.,
 Defendants.

Motion by United University Professions for leave to appear amicus curiae on consideration of the certified questions herein granted only to the extent that the proposed brief is accepted as filed. The brief must be submitted in digital format within seven days.
Chief Judge DiFiore took no part.

Mo. No. 2021-974

Danny Donohue, &c., et al.,
Appellants,

v.

Andrew M. Cuomo, &c., et al.,
Respondents,

et al.,
Defendants.

Motion by Police Benevolent Association of the New York State Troopers, Inc. for leave to file a brief amicus curiae on consideration of the certified questions 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. Chief Judge DiFiore took no part.

Mo. No. 2021-978

Danny Donohue, &c., et al.,
Appellants,

v.

Andrew M. Cuomo, &c., et al.,
Respondents,

et al.,
Defendants.

Motion by New York State Law Enforcement Officers Union, Council 82, AFSCME, AFL-CIO et al. for leave to appear amici curiae on consideration of the certified questions herein granted only to the extent that 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. Chief Judge DiFiore took no part.

Mo. No. 2021-980

Danny Donohue, &c., et al.,
Appellants,

v.

Andrew M. Cuomo, &c., et al.,
Respondents,

et al.,
Defendants.

Motion by Court Attorneys Association of the City of New York, et al. for leave to file a brief amici curiae on consideration of the certified questions herein granted and the proposed brief is accepted as filed. The brief must be submitted in digital format within seven days. Chief Judge DiFiore took no part.

Mo. No. 2021-984
Danny Donohue, &c., et al.,
Appellants,
v.
Andrew M. Cuomo, &c., et al.,
Respondents,
et al.,
Defendants.

Motion by New York State Police Investigators Association, Local 4 IUPA, AFL-CIO, et al. for leave to file a brief amici curiae on consideration of the certified questions 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.
Chief Judge DiFiore took no part.

2 Mo. No. 2021-970
The People &c.,
Respondent,
v.
Levan Easley,
Appellant.

Motion by The Legal Aid Society, Inc. for leave to appear amicus curiae on the appeal herein granted only to the extent that 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. 2021-975
The People &c.,
Respondent,
v.
Levan Easley,
Appellant.

Motion by Electronic Frontier Foundation for leave to file a brief amicus 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.

4 Mo. No. 2021-754
In the Matter of Robert C.E.,
Appellant,
v.
Felicia N.F.,
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2021-566
EPG Associates, LP et al.,
 Appellants,
 v.
Cascadilla School et al.,
 Defendants,
Barbara Cheung, 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. 2021-605
Filomio Truck Sales, Inc.,
 Appellant,
 v.
City of New York,
 Respondent.

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

3 Mo. No. 2021-917
In the Matter of Ellen Gesmer, et al.,
 Appellants,
 v.
Administrative Board of the New York State
Unified Court System, et al.,
 Respondents.

Motion to dismiss appeal granted and appeal dismissed, with four hundred dollars costs and one hundred dollars costs of motion, upon the ground that the issues presented have become moot. Chief Judge DiFiore and Judge Fahey took no part.

1 Mo. No. 2021-568
Jerry H. Goldfeder et al.,
 Appellants,
 v.
Cenpark Realty et al.,
 Respondents.

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

2 Mo. No. 2021-567
David Gridley, &c.,
 Appellant,
 v.
Turnbury Village, LLC,
 Respondent.

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

4 Mo. No. 2021-572
Roger Hanley et al.,
Appellants,
v.
State of New York,
Respondent.

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

3 Mo. No. 2021-948
The People &c.,
Respondent,
v.
Mark A. Hartle,
Appellant.

Motion for assignment of counsel granted and John A. Cirando, Esq., c/o D.J. & J.A. Cirando, PLLC, 250 South Clinton Street, Suite 350, Syracuse, NY 13202 assigned as counsel to the appellant on the appeal herein.

4 Mo. No. 2021-785
Krystallo Hetelekides, &c.,
Appellant,
v.
County of Ontario et al.,
Respondents.

Motion for leave to appeal denied as unnecessary (*see* CPLR 5601 [b] [1]).
Judge Fahey took no part.

2 Mo. No. 2021-966
Hunters for Deer, Inc. et al.,
Respondents,
v.
Town of Smithtown,
Appellant.

Motion by New York State Department of Environmental Conservation for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. The brief must be submitted in digital format within seven days.

1 Mo. No. 2021-563
In the Matter of Wendy Kreloff,
Appellant,
v.
New York State Division of Homes and
Community Renewal et al.,
Respondents.

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

1 Mo. No. 2021-757
Natalya Kurovskaya et al.,
 Respondents,
 v.
Project O.H.R. (Office for Homecare
Referral), Inc.,
 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.
Motion for a stay dismissed as academic.

2 SSD 72
In the Matter of Tyler L., &c.,
 Appellant.

Appeal dismissed, by the Court *sua sponte*, upon the
ground that the two-Justice dissent at the Appellate
Division is not on a question of law (*see* CPLR 5601
[a]).

1 SSD 69
Estate of Theodore Lipin, et al.,
 Respondents,
 v.
Joan C. Lipin,
 Appellant.

Appeal dismissed without costs, by the Court *sua
sponte*, upon the ground that it does not lie (*see* NY
Const, art VI, § 3 [b]; CPLR 5601).

1 SSD 70
Joan C. Lipin,
 Appellant,
 v.
Danske Bank,
 Respondent,
Ulf Bergquist, et al.,
 Respondents,
et al.,
 Defendants.

Appeal dismissed without costs, by the Court *sua
sponte*, upon the ground that it does not lie (*see* NY
Const, art VI, § 3 [b]; CPLR 5601).

1 Mo. No. 2021-523
A.M. et al.,
 Appellants,
 v.
Holy Resurrection Greek Orthodox Church of
Brookville, et al.,
 Respondents,
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.
Judge Singas took no part.

4 SSD 65
In the Matter of Jasmine Maldonado,
 Respondent,
 v.
Thomas Cappetta,
 Appellant.

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

2 Mo. No. 2021-682
The People &c. ex rel. Sara Molinaro, on
behalf of Wei Li,
 Respondent,
 v.
Warden, Rikers Island, &c.,
 Appellant.

Motion for leave to appeal granted.

4 SSD 67
The People &c. ex rel. Gary H. Moore,
 Appellant,
 v.
Superintendent of Marcy 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).

3 Mo. No. 2021-728
In the Matter of Cheyenne Q. et al.

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

Schenectady County Department of Social
Services,
 Respondent;
Charles Q.,
 Appellant.

4 SSD 68
Gail M. Rote et al.,
 Respondents,
 v.
John A. Gibbs,
 Appellant.

Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that no appeal lies as of right from the unanimous judgment of the Appellate Division absent the direct involvement of a substantial constitutional question.

4 SSD 66
In the Matter of Ryan S., &c.,
 Appellant.
Scott S.,
 Respondent.

Appeal dismissed, by the Court *sua sponte*, upon the ground that no substantial constitutional question is directly involved.

4 Mo. No. 2021-932
The People &c.,
 Respondent,
 v.
Leon Thomas,
 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. 2021-695
In the Matter of Martin A. Wiley,
 Appellant,
 v.
Epiphany Musabyemariya,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2021-732
In the Matter of Shannon X.,
 Appellant,
 v
Koni Y.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2021-954
The People &c.,
 Respondent,
 v.
Marvin Yanez,
 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.
Judge Singas took no part.