

State of New York
Court of Appeals

February 11, 2021

Decisions

CASES

4 No. 30 SSM 29
The People &c.,
 Respondent,
 v.
Danielle Allen,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

1 No. 7
The People &c.,
 Respondent,
 v.
Frederic Badji,
 Appellant.

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

1 No. 8
Margaret Doe,
 Appellant,
 v.
Bloomberg, L.P., et al.,
 Defendants,
Michael Bloomberg,
 Respondent.

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

1 No. 10
The People &c.,
 Respondent,
 v.
Drury Duval,
 Appellant.

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

MOTIONS

2 SSD 1
In the Matter of Anonymous.

Grievance Committee for the Second,
Eleventh, and Thirteenth Judicial Districts,
Respondent,
Anonymous,
Appellant.

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

4 Mo. No. 2020-844
In the Matter of Matilda B.

Yates County Department of Social Services,
Respondent;
Gerald B.,
Respondent,
Phyllis B.,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2020-288
In the Matter of Jesus Barrera,
Respondent,

v.
Corinthian Cast Stone, Inc.,
et al.,
Appellants.
Workers' Compensation Board,
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2020-803
The People &c. ex rel. Timothy D. Bush,
Appellant,

v.
A. Awopetu, &c.,
Respondent.

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

2 Mo. No. 2021-78
The People &c.,
 Appellant,
 v.
Donovan Buyund,
 Respondent.

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 respondent on the appeal herein.

1 Mo. No. 2020-783
In the Matter of Issiah C., &c.,
 Appellant.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.
Judge Feinman took no part.

 Mo. No. 2021-106
The People &c.,
 Respondent,
 v.
Perry Campbell,
 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.

1 Mo. No. 2020-781
In the Matter of Rosetta Cochran,
 Appellant,
 v.
Shola Olatoye, &c. et al.,
 Respondents.

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

3 Mo. No. 2021-145
The People &c.,
 Respondent,
 v.
Glenn E. Cummings,
 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. 2020-842
In the Matter of Ethan D.

Administration for Children's Services,
Respondent;
Ivan D., et al.,
Respondents,
Holga T.,
Nonparty-Appellant.
(And Three Other Proceedings.)

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the proceedings within the meaning of the Constitution.

4 Mo. No. 2021-120

The People &c.,
Respondent,
v.
Kevin Dogan,
Appellant.

Motion for assignment of counsel granted and David C. Schopp, Esq., The Legal Aid Bureau of Buffalo, Inc., 290 Main Street, Suite 350, Buffalo, NY 14202 assigned as counsel to the appellant on the appeal herein.

3 Mo. No. 2020-777
In the Matter of Christine Duffy et al.,
Appellants,

v.
Town of Guilderland et al.,
Respondents,
et al.,
Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2020-838
In the Matter of Ethan F. et al.

Oneida County Department of Social
Services,
Respondent;
Corrie L.,
Appellant.
(And Another Proceeding.)

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

4 Mo. No. 2020-809
Glenn Freeland et al., &c.,
 Respondents,
 v.
Erie County, et al.,
 Appellants.

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. 2020-771
In the Matter of Nicholas G.

Suffolk County Department of Social
Services,
 Respondent;
Candace G.,
 Appellant,
et al.,
 Respondent.
(And Another Proceeding.)

Motion for leave to appeal dismissed upon the ground that it does not lie (*see* CPLR 5602 [a]; *see also* CPLR 5512 [a]).
Motion for poor person relief dismissed as academic.

1 Mo. No. 2020-541
Getty Properties Corp. et al.,
 Respondents,
 v.
Getty Petroleum Marketing Inc.,
 Defendant,
1314 Sedgwick Ave. LLC, et al.,
 Appellants.

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

1 Mo. No. 2021-70
The People &c.,
 Respondent,
 v.
Jose Guevara,
 Appellant.

Motion for assignment of counsel granted and Caprice R. Jenerson, Esq., Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, NY 10007 assigned as counsel to the appellant on the appeal herein.

4 Mo. No. 2020-826
In the Matter of Susan Y. Hilkert,
 Respondent,
 v.
Laurie Parsons-O'Dell,
 Respondent,
Anthony Head,
 Appellant.
(And Another Proceeding.)

Motion for leave to appeal denied.

1 Mo. No. 2021-127
The People &c.,
 Respondent,
 v.
Anton Hill,
 Appellant.

Motion for an extension of the time within which to apply for permission to appeal pursuant to CPL 460.20 dismissed as untimely.

2 SSD 2
HSBC Bank USA, N.A.,
 Respondent,
 v.
Joaquin Arias, et al.,
 Defendants,
David A. Bythewood,
 Appellant.

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 Constitution.

4 Mo. No. 2020-813
In the Matter of Marianys I.

Erie County Department of Social Services,
 Respondent;
Gabrielle I.,
 Appellant.
(And Another Proceeding.)

Motion for leave to appeal dismissed upon the ground that the orders sought to be appealed from do not finally determine the proceedings within the meaning of the Constitution.

2 Mo. No. 2020-791
Islip Theaters, LLC,
Respondent,
v.
Landmark Plaza Properties Corp.,
Appellant,
John Fickling,
Appellant,
et al.,
Defendants.
(And Another Action.)

Motion by John Fickling for leave to appeal dismissed upon the ground that he is not a party aggrieved (*see* CPLR 5511).
Motion by Landmark Plaza Properties Corp. for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the actions within the meaning of the Constitution.

2 Mo. No. 2020-798
In the Matter of Zaylynn J.

Administration for Children's Services,
Respondent;
Bennie J.,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2020-800
In the Matter of Wayne J., &c.,
Appellant,
v.
State of New York, et al.,
Respondents.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.
Chief Judge DiFiore took no part.

1 Mo. No. 2021-45
Estate of Margaret Kainer, &c., et al.,
Appellants,
v.
UBS AG, &c., et al.,
Respondents,
et al.,
Defendants.

Motion by Raoul Wallenberg Centre for Human Rights, et al. 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.

2 Mo. No. 2020-793
In the Matter of William Koegel, &c.

John B. Koegel, &c.,
Respondent;
Irene Lawrence Koegel,
Appellant.

Motion for leave to appeal granted.

3 Mo. No. 2020-825
State of New York,
Respondent,

v.
Aaron Konikov, &c.,
Appellant.

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

1 Mo. No. 2020-845
In the Matter of Frances M.L.,
Respondent,

v.
Luis F.O.C.,
Appellant,
Michelle D., et al.,
Respondents.
(And Another Proceeding.)

Motion for leave to appeal denied.

2 Mo. No. 2020-848
In the Matter of Francisco Mercedes,
Appellant,

v.
Rhina Mercedes,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2021-119
Michael Ninivaggi, &c. et al.,
Appellants,
v.
County of Nassau,
Defendant,
Merrick Union Free School District,
Respondent.

Motion by New York State Trial Lawyers' Association 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.

2 Mo. No. 2021-150
The People &c.,
Respondent,
v.
Howard Powell,
Appellant.

Motion by The Innocence Project 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.

2 Mo. No. 2021-160
The People &c.,
Respondent,
v.
Howard Powell,
Appellant.

Motion by Center for Appellate Litigation, et al. 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.

3 Mo. No. 2021-134
Protect the Adirondacks! Inc.,
Respondent-Appellant,
v.
New York State Department of
Environmental Conservation et al.,
Appellants-Respondents.

Motion by Adirondack Association of Towns and Villages et al. 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.

3 Mo. No. 2021-138
Protect the Adirondacks! Inc.,
Respondent-Appellant,
v.
New York State Department of
Environmental Conservation et al.,
Appellants-Respondents.

Motion by Empire State Forest Products Association, 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.

3 Mo. No. 2021-151
Protect the Adirondacks! Inc.,
Respondent-Appellant,
v.
New York State Department of
Environmental Conservation et al.,
Appellants-Respondents.

Motion by Open Space Institute, Inc. 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.

3 Mo. No. 2021-155
Protect the Adirondacks! Inc.,
Respondent-Appellant,
v.
New York State Department of
Environmental Conservation et al.,
Appellants-Respondents.

Motion by Adirondack Council, Inc. et al. for leave to appear amici 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.

3 Mo. No. 2021-159
Protect the Adirondacks! Inc.,
Respondent-Appellant,
v.
New York State Department of
Environmental Conservation et al.,
Appellants-Respondents.

Motion by The Nature Conservancy 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 SSD 3
The People &c.,
Respondent,
v.
David Putland,
Appellant.

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

2 Mo. No. 2021-99
The People &c.,
Appellant,
v.
Luis A. Rodriguez,
Respondent.

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 respondent on the appeal herein.

1 Mo. No. 2020-780
In the Matter of Rose Castle Redevelopment
II, LLC, &c.,
 Respondent,
 v.
Franklin Realty Corp., et al.,
 Appellants.

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

1 Mo. No. 2020-738
In the Matter of James C. Russell,
 Appellant,
 v.
New York State Insurance Fund et al.,
 Respondents.

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

1 SSD 4
In the Matter of David Segal, &c.,
 Appellant,
 v.
Attorney Grievance Committee for the First
Judicial Department,
 Respondent.

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).
Chief Judge DiFiore and Judge Feinman took no part.

In the Matter of David Segal,
 Appellant,
 v.
Office of Court Administration, Unified Court
System,
 Respondent.

1 SSD 5
In the Matter of David Segal, &c.,
Appellant,
v.
Attorney Grievance Committee for the First
Judicial Department,
Respondent.

In the Matter of David Segal,
Appellant,
v.
Office of Court Administration, Unified Court
System,
Respondent.

1 SSD 6
In the Matter of David Segal, &c.,
Appellant,
v.
Attorney Grievance Committee for the First
Judicial Department,
Respondent.

In the Matter of David Segal,
Appellant,
v.
Office of Court Administration, Unified Court
System,
Respondent.

3 Mo. No. 2020-762
In the Matter of Samer Y. Siouffi,
Appellant,
v.
Beth A. Siouffi,
Respondent.
(And Two Other Proceedings.)

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).
Chief Judge DiFiore and Judge Feinman took no part.

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).
Chief Judge DiFiore and Judge Feinman took no part.

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as affirmed the October 2018 Family Court order, dismissed upon the ground that such portion of the order does not finally determine the proceedings within the meaning of the Constitution; motion for leave to appeal otherwise denied.

1 Mo. No. 2020-852
Burton S. Sultan,
Appellant,
v.
Michael H. Zhu, &c. et al.,
Respondents.

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

4 Mo. No. 2020-839
In the Matter of State of New York,
Respondent,
v.
Juan U.,
Appellant.

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

2 Mo. No. 2020-705
Giovanni White,
Appellant,
v.
State of New York,
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.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2020-759
The People &c.,
Respondent,
v.
Demetrius Williams,
Appellant.

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

4 Mo. No. 2020-857
The People &c. ex rel. Blake Wingate,
Appellant,
v.
Anthony Annucci, &c.,
Respondent.

Motion for leave to appeal denied.