

June 7, 2018

CASES

No. 105 SSM 4
The People &c.,
Respondent,
v.
Steven Berrezueta,
Appellant.

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

4 No. 66
Linda M. Brown,
Respondent,
v.
State of New York,
Appellant.

Order appealed from and Appellate Division order brought up for review affirmed, with costs.
Opinion by Judge Wilson.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia and Feinman concur.

4 No. 67
Linda M. Brown, &c.,
Respondent,
v.
State of New York,
Appellant.

Order appealed from and Appellate Division order brought up for review affirmed, with costs.
Opinion by Judge Wilson.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia and Feinman concur.

2 No. 110 SSM 12
John P. Mery et al.,
Appellants,
v.
Frank Eginger,
Defendant,
Society of Friends Church, &c.,
Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, for the reasons stated in the memorandum at the Appellate Division (149 AD3d 827 [2017]) and certified question not answered as unnecessary.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

3 No. 108 SSM 9
Mid-Hudson Valley Federal Credit Union,
Appellant,
v.
Quartararo & Lois, PLLC et al.,
Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order insofar as appealed from affirmed, with costs. The Appellate Division properly concluded that plaintiff Mid-Hudson Valley Federal Credit Union did not state a claim for legal malpractice against defendants Paul Quartararo and Quartararo & Lois, PLLC insofar as the amended complaint failed to allege facts "sufficiently particular to give the court and [defendants] notice of the transactions, occurrences, or series of transactions or occurrences, intended to be proved" (CPLR 3013). Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

1 No. 111 SSM 13
The People &c.,
Respondent,
v.
William Rodriguez,
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. 107 SSM 8
The People &c.,
Respondent,
v.
Rafael Sanabria,
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.

4 No. 59
Eric White et al.,
 Appellants,
 v.
Eric T. Schneiderman, &c. et al.,
 Respondents.

Order, insofar as appealed from, affirmed, with costs.
Opinion by Judge Garcia.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Wilson and Feinman concur.

MOTIONS

1 SSD 28
In the Matter of Paula Assimakopoulos,
Deceased.

Eva Lana,
Respondent,
v.
Nicolle Assimakopoulos-Panuthos,
Appellant.

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

2 Mo. No. 2018-264
In the Matter of Bonefish Grill, LLC,
Appellant,
v.
Zoning Board of Appeals of the Village of
Rockville Centre,
Respondent.

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

2 Mo. No. 2018-356
In the Matter of Denise Ann Brady,
Respondent,
v.
Raymond A. White,
Appellant.
(And Two Other Proceedings)

Motion, insofar as it seeks leave to appeal from so
much of the Appellate Division order as affirmed
Family Court's denial of father's objection to the
Support Magistrate's willfulness determination,
dismissed upon the ground that such portion of the
order does not finally determine a proceeding within
the meaning of the Constitution; motion for leave to
appeal otherwise denied.

4 Mo. No. 2018-146
In the Matter of William Brookman,
Appellant,
v.
Shari Rogers,
Respondent.

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

1 Mo. No. 2018-533
The People &c.,
 Respondent,
 v.
Boris Brown,
 Appellant.

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 appellant on the appeal herein.

1 Mo. No. 2018-407
In the Matter of Mylah C., &c.

Chantal C.,
 Appellant;
Administration for Children's Services,
 Respondent.

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

1 Mo. No. 2018-530
Capital One Taxi Medallion Finance,
 Respondent,
 v.
Patton R. Corrigan et al.,
 Appellants.

Motion by The Association of Commercial Finance Attorneys, Inc. 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. Judge Feinman took no part.

3 Mo. No. 2018-364
In the Matter of Gloria M. Cotto,
 Respondent,
 v.
William H. Danielson,
 Appellant,
et al.,
 Respondent.
(And Another Related Proceeding)

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.

1 Mo. No. 2018-399
In the Matter of Toussaint E., &c.

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

Allen E.,
 Appellant,
Administration for Children's Services,
 Respondent,
Angeline M.,
 Respondent.

1 Mo. No. 2018-257
Luisa C. Esposito,
 Appellant,
 v.
Allen H. Isaac, &c., et al.,
 Respondents.

Motion for leave to appeal dismissed upon the
ground that the Court of Appeals does not have
jurisdiction to entertain this motion for leave to
appeal from the order of the Appellate Division
entered in this action commenced in Civil Court of
the City of New York (see NY Const, art VI, §
3[b][7]; CPLR 5602).

4 Mo. No. 2018-354
The People &c. ex rel. Trevor Frederick,
 Appellant,
 v.
Superintendent, Auburn Correctional Facility,
 Respondent.

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

1 Mo. No. 2018-353
In the Matter of Yadiells G., a Person Alleged
to be a Juvenile Delinquent,
 Appellant.

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

2 SSD 29
In the Matter of Leeann Galea,
 Appellant,
 v.
Matthew J. Krol,
 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.

4 SSD 25
In the Matter of Charles E. Henry, Jr.,
 Appellant,
 v.
Mark H. Fandrich, et al.,
 Respondents.

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

2 SSD 24
In the Matter of Louis Ivies, &c.,
 Appellant,
 v.
Gregory L. Lasak, &c., et al.,
 Respondents.

Appeal dismissed without costs, by the Court sua
sponte, upon the ground that no appeal lies as of
right from the unanimous order of the Appellate
Division absent the direct involvement of a
substantial constitutional question (CPLR 5601).

3 Mo. No. 2018-319
In the Matter of Michael Kirshtein,
 Appellant,
 v.
Anthony J. Annucci, &c.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2018-339
In the Matter of Tracey LaChere,
 Respondent,
 v.
Thomas J. Maliszweski,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2018-541
The People &c.,
Respondent,
v.
Jaime Lopez-Mendoza,
Appellant.

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

2 SSD 23
Nella Manko,
Appellant,
v.
Lenox Hill Hospital,
Respondent.

Appeal dismissed without costs, by the Court sua
sponte, upon the ground that the orders appealed
from do not finally determine the action within the
meaning of the Constitution.

2 Mo. No. 2018-400
In the Matter of Tabitha T.S.M.

Heart Share Human Services of New York,
Roman Catholic Diocese of Brooklyn,
Respondent;
Tracee L.M.,
Respondent.
Candace E.,
Nonparty-Appellant;
Carmen H.,
Intervenor-Respondent.
(And A Related Proceeding)

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

2 Mo. No. 2018-258
Albert Michael,
Appellant,
v.
He Gin Lee Architect Planner, PLLC et al.,
Respondents.

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

1 Mo. No. 2018-347
In the Matter of Pamela N.,
 Respondent,
 v.
Aaron A.,
 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.
Motion for poor person relief dismissed as academic.

4 SSD 26
Otu A. Obot,
 Appellant,
 v.
Dennis Evchich Agency, Inc.,
 Respondent.

Appeal dismissed, by the Court sua sponte, upon the ground that the Court does not have jurisdiction to entertain this appeal (see NY Const, art VI, § 3[b][7]; CPLR 5601).

2 SSD 22
In the Matter of Philip J. Patouhas,
 Appellant,
 v.
John P. Colangelo &c., et al.,
 Respondents.

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

3 Mo. No. 2018-546
The People &c.,
 Respondent,
 v.
Joseph A. Peterkin Jr.,
 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 SSD 31
The People &c.,
 Appellant,
 v.
Domingo Ricart,
 Respondent.

Appeal dismissed, by the Court sua sponte, upon the ground that the reversal by the Appellate Division was not "on the law alone or upon the law and such facts, which, but for the determination of law, would not have led to reversal" (CPL 450.90[2][a]).

1 Mo. No. 2018-455
The People &c.,
 Respondent,
 v.
Manuel Rodriguez,
 Appellant.

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

3 Mo. No. 2018-345
In the Matter of Roberto Carlos Romero,
 Respondent,
 v.
Melissa Ann Guzman,
 Appellant.
(And Another Related Proceeding.)

Motion for leave to appeal denied.

1 Mo. No. 2018-355
In the Matter of Jayden S., &c.

Shalea S.,
 Appellant;
Administration for Children's Services of the
City of New York,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2018-349
In the Matter of Jayveon S.

Onondaga County Department of Children
and Family Services,
 Respondent;
Alexandra C.,
 Respondent,
Timothy S.,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2018-350
In the Matter of Soraya S.

Motion for leave to appeal denied.

Chautauqua County Department of Social
Services,
 Respondent;
Kathryne T.,
 Appellant,
et al.,
 Respondent.

2 Mo. No. 2018-397
In the Matter of Joseph Sarfati,
 Respondent-Appellant,
 v.
Christine DeJesus,
 Appellant-Respondent.
(And Another Proceeding)

Motions for leave to appeal denied.

1 Mo. No. 2018-267
The People &c.,
 Respondent,
 v.
Darrell Spencer,
 Appellant.

Motion for reargument denied.
Judge Feinman took no part.

3 Mo. No. 2018-406
Paul B. Suchow,
 Respondent,
 v.
Margaret Suchow,
 Appellant.

On the Court's own motion, appeal dismissed,
without costs, upon the ground that the order
appealed from does not finally determine the action
within the meaning of the Constitution.
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.

3 Mo. No. 2018-506
Paul B. Suchow,
 Respondent,
 v.
Margaret Suchow,
 Appellant.

Motion for a stay dismissed as academic.

1 Mo. No. 2018-537
The People &c.,
 Respondent,
 v.
Victor Thomas,
 Appellant.

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 appellant on the appeal herein.

1 Mo. No. 2018-337
Tribeca Lending Corporation,
 Respondent,
 v.
Gregory M. Bartlett, &c.,
 Appellant,
NYS Department of Taxation 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. 2018-507
The People &c.,
 Respondent,
 v.
Derrick Ulett,
 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.

1 Mo. No. 2018-528
The People &c.,
 Respondent,
 v.
Fidel Vega,
 Appellant.

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 appellant on the appeal herein.

3 Mo. No. 2018-300
In the Matter of Lee-Ann W. et al., &c.

Sullivan County Department of Family
Services,
 Respondent;
James U.,
 Appellant.

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

2 Mo. No. 2018-346
In the Matter of McKain W.

Administration for Children's Services,
 Respondent;
Coreen M.,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2018-315
In the Matter of Wegmans Food Markets,
Inc.,

 Respondent,
 v.
Tax Appeals Tribunal of the State of New
York,
 Respondent,
Commissioner of Taxation and Finance of the
State of New York,
 Appellant.

Motion for leave to appeal granted.

1 SSD 27
In the Matter of Carl D. Wells,
 Appellant,

 v.
Warden Ada Pressley, et al.,
 Respondents.

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

1 Mo. No. 2018-281
Jeanette Westphal, &c.,
 Respondent,
et al.,
 Plaintiff,
 v.

Real Estate International Ltd., et al.,
 Respondents,
Ronald Losner,
 Appellant,
et al.,
 Defendant.
(And Another Action)

1 SSD 30
Anthony Zappin,
 Appellant,
 v.
Claire Comfort,
 Respondent.

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

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