

May 08, 2018

CASES

No. 92

In the Matter of the Hon. Leticia D. Astacio, a
Judge of the Rochester City Court, Monroe
County.

On consideration of the continuation of this Court's
April 11, 2018 suspension, with pay, of Honorable
Leticia D. Astacio from the office of Judge of
Rochester City Court, Monroe County, it is
determined that the suspension continue, with pay,
effective immediately.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Garcia, Wilson and Feinman concur.

No. 91

In the Matter of the Hon. Robert L. Cicale, a
Judge of the District Court, Suffolk County.

On consideration of the continuation of this Court's
April 2, 2018 suspension, with pay, of Honorable
Robert L. Cicale from the office of Judge of District
Court, Suffolk County, it is determined that the
suspension continue, with pay, effective immediately.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Garcia, Wilson and Feinman concur.

1 No. 50
The People &c.,
 Respondent,
 v.
Twanek Cummings,
 Appellant.

Order reversed and a new trial ordered.
Opinion by Judge Wilson.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Garcia and Feinman concur, Judge Rivera in a
concurring opinion.

4 No. 48
The People &c.,
 Appellant,
 v.
Matthew Kuzdzal,
 Respondent.

Order reversed and case remitted to the Appellate Division, Fourth Department, for consideration of the facts (CPL 470.25[2][d]; 470.40[2]) and issues raised but not determined on appeal to that court.
Opinion by Chief Judge DiFiore.
Judges Stein, Garcia, Wilson and Feinman concur, Judge Wilson in a concurring opinion.
Judge Rivera dissents and votes to affirm in an opinion.
Judge Fahey took no part.

2 No. 45
In the Matter of Marine Holdings, LLC, &c.
et al.,
 Respondents,
 v.
New York City Commission on Human
Rights,
 Appellant,
et al.,
 Respondent.

Order reversed, with costs, and judgment of Supreme Court, Queens County, reinstated, in a memorandum. Chief Judge DiFiore and Judges Stein, Fahey and Wilson concur.
Judge Garcia dissents and votes to affirm in an opinion in which Judge Feinman concurs.
Judge Rivera took no part.

4 No. 49
The People &c.,
 Respondent,
 v.
Akeem Wallace,
 Appellant.

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

MOTIONS

1 Mo. No. 2018-332

Abax Lotus Ltd. et al.,
Respondents,

v.

China Mobile Media Technology Inc. et al.,
Defendants,
Zhang Zhengyu, &c.,
Appellant.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2018-307

In the Matter of American Independent
Insurance Co.,
Appellant,

v.

Nova Acupuncture, P.C., et al.,
Respondents.

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

2 Mo. No. 2018-212

Amelia Arcamone-Makinano,
Appellant,

et al.,

Plaintiff,

v.

Britton Property, Inc. et al.,
Respondents.

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

3 Mo. No. 2018-310

In the Matter of Kevin N. Barr,
Appellant,

v.

New York State Department of Motor
Vehicles,
Respondent.

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

2 Mo. No. 2018-326
Keith Bierman,
Appellant,
v.
Rosemarie Limoncelli,
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 a stay dismissed as academic.

2 Mo. No. 2018-335
Donald Boening et al.,
Appellants,
v.
Nassau County Department of Assessment, et al.,
Respondents.

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

2 Mo. No. 2018-255
In the Matter of Christopher Brocato, &c., et al.,
Respondents,
v.
Frank Tinari, &c., et al.,
Appellants,
et al.,
Respondents.

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

2 Mo. No. 2018-328
Crifasi Real Estate, Inc.,
Appellant,
v.
Nancy Galasso, et al.,
Respondents.

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

2 Mo. No. 2018-273
In the Matter of Fred C. Dicker,
 Respondent,
 v.
Glen Oaks Village Owners, Inc.,
 Appellant,
et al.,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2018-263
The People &c.,
 Respondent,
 v.
Arthur Eiss,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2018-333
In the Matter of Empire State Beer
Distributors Association, Inc. et al.,
 Appellants,
 v.
New York State Liquor Authority,
 Respondent,
Costco Wholesale Corporation et al.,
 Intervenors-Respondents.

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

1 Mo. No. 2018-299
John Evatz,
 Appellant,
 v.
Chanel, Inc.,
 Respondent.

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

4 Mo. No. 2018-116
In the Matter of Neveah G. et al.

Erie County Department of Social Services,
Respondent;
Anthony G.,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2018-193
In the Matter of Neveah G. et al.

Erie County Department of Social Services,
Respondent;
Jahkeya A.,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2018-161
The People &c. ex rel. Isaac Jagganarine,
Appellant,
v.
Jeffrey J. Murphy, &c.,
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2018-314
Carol L. Jones, &c., et al.,
Respondents,
v.
Town of Carroll 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.
Judge Fahey took no part.

2 Mo. No. 2018-240
In the Matter of Larchmont Pancake House,
Appellant,
v.
Board of Assessors &c., et al.,
Respondents.
(And Three Other Proceedings)

Motion for leave to appeal granted.

2 Mo. No. 2018-276
In the Matter of Larchmont Pancake House,
Appellant,
v.
Board of Assessors &c., et al.,
Respondents.
(And Three Other Proceedings)

Motion by Stop & Shop for leave to appear amicus curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.

2 Mo. No. 2018-292
In the Matter of Larchmont Pancake House,
Appellant,
v.
Board of Assessors &c., et al.,
Respondents.
(And Three Other Proceedings)

Motion by International Council of Shopping Centers for leave to appear amicus curiae on the motion for leave to appeal herein granted and the memorandum of law is accepted as filed.

3 Mo. No. 2018-327
In the Matter of Arnold Lasker,
Appellant.
Commissioner of Labor,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2018-268
In the Matter of Nonhuman Rights Project,
Inc., on Behalf of Tommy,
 Appellant,
 v.
Patrick C. Lavery, &c., et al.,
 Respondents.

In the Matter of Nonhuman Rights Project,
Inc., on Behalf of Kiko,
 Appellant,
 v.
Carmen Presti et al.,
 Respondents.

1 Mo. No. 2018-269
In the Matter of Nonhuman Rights Project,
Inc., on Behalf of Tommy,
 Appellant,
 v.
Patrick C. Lavery, &c., et al.,
 Respondents.

In the Matter of Nonhuman Rights Project,
Inc., on Behalf of Kiko,
 Appellant,
 v.
Carmen Presti et al.,
 Respondents.

Motion for leave to appeal denied.
Chief Judge DiFiore and Judges Rivera, Fahey,
Garcia and Wilson concur, Judge Fahey in an
opinion.
Judges Stein and Feinman took no part.

Motion by Center for Constitutional Rights for leave
to appear amicus curiae on the motion for leave to
appeal herein granted and the brief is accepted as
filed.
Judges Stein and Feinman took no part.

1 Mo. No. 2018-270
In the Matter of Nonhuman Rights Project,
Inc., on Behalf of Tommy,
 Appellant,
 v.
Patrick C. Lavery, &c., et al.,
 Respondents.

In the Matter of Nonhuman Rights Project,
Inc., on Behalf of Kiko,
 Appellant,
 v.
Carmen Presti et al.,
 Respondents.

1 Mo. No. 2018-293
In the Matter of Nonhuman Rights Project,
Inc., on Behalf of Tommy,
 Appellant,
 v.
Patrick C. Lavery, &c., et al.,
 Respondents.

In the Matter of Nonhuman Rights Project,
Inc., on Behalf of Kiko,
 Appellant,
 v.
Carmen Presti et al.,
 Respondents.

Motion by Kristin Andrews, et al. for leave to appear
amici curiae on the motion for leave to appeal herein
granted and the brief is accepted as filed.
Judges Stein and Feinman took no part.

Motion by Justin Marceau et al. for leave to appear
amici curiae on the motion for leave to appeal herein
granted and the brief is accepted as filed.
Judges Stein and Feinman took no part.

1 Mo. No. 2018-294
In the Matter of Nonhuman Rights Project,
Inc., on Behalf of Tommy,
Appellant,
v.
Patrick C. Lavery, &c., et al.,
Respondents.

In the Matter of Nonhuman Rights Project,
Inc., on Behalf of Kiko,
Appellant,
v.
Carmen Presti et al.,
Respondents.

2 Mo. No. 2018-340
The People &c.,
Respondent,
v.
Brian T. McClane,
Appellant.

2 Mo. No. 2018-373
Adriana Moreno, &c., et al.,
Respondents,
v.
Future Care Health Services, Inc., et al.,
Appellants.

1 Mo. No. 2018-357
J. Armand Musey,
Appellant,
v.
425 East 86 Apartments Corp., et al.,
Respondents,
et al.,
Defendant.

Motion by Laurence H. Tribe for leave to appear
amicus curiae on the motion for leave to appeal
herein granted and the brief is accepted as filed.
Judges Stein and Feinman took no part.

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

Motion for a stay denied.

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.

4 Mo. No. 2018-288
In the Matter of Jean Oliver,
Appellant,
v.
Joseph A. D'Amico, &c.,
Respondent.

Motion for reargument of motion for leave to appeal denied.
Cross motion to seal Exhibit 9 of the motion submissions granted.

1 Mo. No. 2018-306
P. Zaccaro, Co., Inc. et al.,
Appellants,
v.
DHA Capital, LLC, et al.,
Defendants,
Ding K. Wai &c. et al.,
Respondents.

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

2 Mo. No. 2018-304
In the Matter of Anthony Pappas,
Appellant,
v.
Nassau County Supreme Court, et al.,
Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2018-329
Luis Rosario et al.,
Respondents,
v.
Monroe Mechanical Services, Inc. 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. 2018-313
In the Matter of County of Suffolk,
Appellant,
v.
Latashen Johnson et al.,
Respondent.

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

1 Mo. No. 2018-282
Paul Viselli et al.,
 Appellants,
 v.
The Riverbay Corporation,
 Respondent.

Motion for leave to appeal granted.

4 Mo. No. 2018-324
The People &c. ex rel. Anthony T. Woods,
 Appellant,
 v.
John B. Lempke, &c.,
 Respondent.

Motion for leave to appeal denied.