

November 20, 2018

**CASES**

4                    No. 116  
Town of Aurora, &c.,  
    Respondent,  
    v.  
Village of East Aurora, &c.,  
    Appellant.

Order modified, without costs, by (1) denying plaintiff Town of Aurora's motion for summary judgment, (2) granting defendant Village of East Aurora's motion for summary judgment only to the extent it sought a declaration in its favor as to the Brooklea Drive Bridge, and (3) reinstating so much of the judgment of Supreme Court, Erie County, as declared the Town of Aurora is responsible for the expenses of repairing the Brooklea Drive Bridge, and, as so modified, affirmed.

Opinion by Judge Stein.

Chief Judge DiFiore and Judges Wilson and Feinman concur.

Judge Fahey dissents in part and votes to affirm in an opinion, in which Judges Rivera and Garcia concur.

3                    No. 115  
In the Matter of Elaine DeVera, &c., et al.,  
    Petitioners,  
Susana Taveras, &c., et al.,  
    Respondents,  
    v.  
Maryellen Elia, &c., et al.,  
    Appellants.

Order affirmed, with costs.

Opinion by Judge Garcia.

Chief Judge DiFiore and Judges Stein, Fahey and Feinman concur.

Judge Rivera dissents in an opinion in which Judge Wilson concurs.

4                    No. 124  
Angelo A. Ferrara,  
    Respondent,  
    v.  
Peaches Cafe LLC, et al.,  
    Defendants,  
COR Ridge Road Company, LLC, &c.,  
    Appellant.

Judgment 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.

1                    No. 147 SSM 24  
The People &c.,  
    Respondent,  
    v.  
Tamarkqua Garland,  
    Appellant.

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

2                    No. 119  
The People &c.,  
    Respondent,  
    v.  
Rohan Manragh, Jr.,  
    Appellant.

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

1                    No. 125  
The People &c.,  
    Respondent,  
    v.  
Rodney Watts,  
    Appellant.

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

## MOTIONS

2                    Mo. No. 2018-910  
Andrew Carothers, M.D., P.C., &c.,  
Appellant,  
v.  
Progressive Insurance Company,  
Respondent.

Motion to dismiss appeal denied.

2                    Mo. No. 2018-880  
The People &c.,  
Respondent,  
v.  
Willie Baker,  
Appellant.

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

1                    Mo. No. 2018-870  
Mark Coles,  
Appellant,  
v.  
Tracey Towers Associates, LP., et al.,  
Respondents,  
et al.,  
Defendants.

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

2                    Mo. No. 2018-845  
Marion Dudley, &c.,  
Plaintiff,  
v.  
City of New York, et al.,  
Respondents,  
et al.,  
Defendants;  
George Heath,  
Nonparty-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 other relief dismissed upon the ground  
that this Court does not have jurisdiction to entertain  
it (see NY Const, art VI, § 3).

3                    Mo. No. 2018-912  
The People &c. ex rel. Marcus Frye,  
    Appellant,  
    v.  
Paul Piccolo, &c.,  
    Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2018-864  
Robert Greco,  
    Appellant,  
    v.  
Susan Greco,  
    Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2018-908  
Aaron S. Hagler, &c. et al.,  
    Appellants,  
    v.  
Southampton Hospital, 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 (see Paglia v Agrawal, 69 NY2d 946 [1987]).

3                    Mo. No. 2018-901  
In the Matter of Royal Danniel Hall,  
    Appellant,  
    v.  
Debra Benziger, &c.,  
    Respondent.

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

3                    Mo. No. 2018-872  
The People &c.,  
    Respondent,  
    v.  
Joseph R. Hebert,  
    Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2018-862  
International Brain Research Foundation, Inc.,  
Appellant,  
v.  
John A. Cavalier, et al.,  
Respondents.

Motion for leave to appeal dismissed as untimely  
(see CPLR 5513[b]; 2103[b][2]).

2                    Mo. No. 2018-917  
Bijan Karimian,  
Appellant,  
v.  
Time Equities, Inc., 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. 2018-986  
In the Matter of Sharif King,  
Appellant,  
v.  
Neil Ross, &c.,  
Respondent.

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

2                    Mo. No. 2018-770  
In the Matter of Tina Leggio,  
Appellant,  
v.  
Sharon Devine, &c. et al.,  
Respondents.

Motion, insofar as it seeks leave to appeal from the  
February 2018 Appellate Division judgment,  
granted; motion for leave to appeal otherwise  
dismissed upon the ground that the June 2018  
Appellate Division order denying reargument or  
leave to appeal does not finally determine the  
proceeding within the meaning of the Constitution.  
Motion for poor person relief granted.

1 Mo. No. 2018-829

Janelle M., &c.,  
Appellant,

v.

New York City Health and Hospitals  
Corporation (Lincoln Hospital),  
Respondent.

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

2 Mo. No. 2018-875

Adam Matuszewski,  
Appellant,

v.

City of New York, et al.,  
Respondents,  
Skanska/Picone II, &c., et al.,  
Respondents,

et al.,

Defendant;

Welsbach Electrical Corp.,  
Third-Party/Second Third-Party  
Defendant-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.

Mo. No. 2018-907

The People &c.,  
Respondent,

v.

Hamdy Mohamed,  
Appellant.

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain the motion from the order of the Appellate Term (see CPLR 5602[a]).

2 Mo. No. 2018-900

Ada Oparaji,  
Plaintiff,  
Maurice Oparaji,  
Appellant,

v.

Citibank, N.A., et al.,  
Respondents.

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain the 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[a]).

2 Mo. No. 2018-905  
Domenick Perruccio,  
Appellant,  
v.  
Leonora Evelyn S. Perruccio,  
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.

1 Mo. No. 2018-771  
In the Matter of James Pettus,  
Appellant,  
et al.,  
Petitioner,  
v.  
Board of Directors, et al.,  
Respondents.  
(Index No. 251413/14)

Motion, insofar as treated as a motion for reargument, denied.  
Motion for poor person relief dismissed as academic.  
Motion for other relief dismissed upon the ground that this Court does not have jurisdiction to entertain it (see NY Const, art VI, § 3).

1 Mo. No. 2018-807  
In the Matter of James Pettus,  
Appellant,  
et al.,  
Petitioner,  
v.  
Board of Directors, et al.,  
Respondents.  
(Index No. 250720/15)

Motion, insofar as treated as a motion for reargument, denied.  
Motion for poor person relief dismissed as academic.  
Motion for other relief dismissed upon the ground that this Court does not have jurisdiction to entertain it (see NY Const, art VI, § 3).

2 Mo. No. 2018-879  
The People &c.,  
Respondent,  
v.  
Derrias Robinson,  
Appellant.

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

1                    Mo. No. 2018-813  
In the Matter of Marc Salz, &c.,  
    Appellant,  
    v.  
Bellagio, LLC, et al.,  
    Respondents.  
(And Another Proceeding)

Motion for leave to appeal denied.  
Motion for ancillary relief dismissed as academic.

2                    Mo. No. 2018-1059  
In the Matter of Stephen Schoonmaker,  
    Appellant,  
    v.  
New York State Department of Motor  
Vehicles,  
    Respondent.

Motion for a stay denied.

3                    Mo. No. 2018-866  
In the Matter of Thomas Smith,  
    Appellant,  
    v.  
Anthony J. Annucci, &c. et al.,  
    Respondents.

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

3                    Mo. No. 2018-823  
Joshua G. Stegemann,  
    Appellant,  
    v.  
State of New York,  
    Respondent.

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

2                    Mo. No. 2018-881  
The People &c.,  
    Respondent,  
    v.  
Kevin C. Whitney,  
    Appellant.

Motion for leave to appeal denied.