

September 18, 2018

CASE

3 No. 128 SSM 16
In the Matter of Wayne Spence, as President
of the New York State Public Employees
Federation, AFL-CIO, et al.,
 Appellants,
 v.
New York State Department of Agriculture
and Markets et al.,
 Respondents.

On review of submissions pursuant to section 500.11
of the Rules, order, insofar as appealed from,
affirmed, without costs. The challenged policy has
not been shown to be unconstitutional (see United
States Civ. Serv. Commn. v National Assn. of Letter
Carriers, 413 US 548, 564 [1973]; see also United
States v National Treasury Employees Union, 513
US 454, 467 [1995]).
Chief Judge DiFiore and Judges Stein, Fahey, Garcia
and Feinman concur.
Judge Rivera dissents in an opinion.
Judge Wilson dissents in a separate dissenting
opinion.

MOTIONS

1 Mo. No. 2018-733
The People &c.,
 Appellant,
 v.
Doran Allen,
 Respondent.

Motion to vacate this Court's May 17, 2018
preclusion order granted.

1 Mo. No. 2018-902
The People &c.,
 Respondent,
 v.
Emmanuel Almonte,
 Appellant.

Motion for assignment of counsel granted and
Justine M. Luongo, Esq., Attorney-in-Chief,
Criminal Defense Practice, The Legal Aid Society,
199 Water Street, New York, NY 10038 assigned as
counsel to the appellant on the appeal herein.

4 Mo. No. 2018-930
Town of Aurora, &c.,
 Respondent,
 v.
Village of East Aurora, &c.,
 Appellant.

Motion by New York State Conference of Mayors
and Municipal Officials 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 and the brief submitted in
digital format within seven days.

1 Mo. No. 2018-639
Duvar Ayers et al.,
 Appellants,
 v.
Avinash Mohan, M.D., et al.,
 Defendants,
Raul Ulloa, M.D. et al.,
 Respondents.

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

2 Mo. No. 2018-619
Bank of America, N.A., &c.,
Respondent,
v.
Yaffa Snyder, &c., et al.,
Defendants,
Shabbir Mohammad,
Appellant.

Motion for leave to appeal dismissed upon the ground that simultaneous appeals do not lie to both the Appellate Division and the Court of Appeals (see Parker v Rogerson, 35 NY2d 751, 753 [1974]).

2 Mo. No. 2018-735
In the Matter of Rahdee Bennett,
Appellant,
v.
Anthony J. Annucci, &c., et al.,
Respondents.

Motion for leave to appeal dismissed upon the ground that the issues presented have become moot.

Mo. No. 2018-728
The People &c.,
Respondent,
v.
Steven Berrezueta,
Appellant.

Motion for reargument denied.
Motion to expand the record denied.

Mo. No. 2018-790
The People &c.,
Respondent,
v.
Steven Berrezueta,
Appellant.

Motion by Gideon Yaffe, et al. for leave to appear amici curiae on the motion herein denied.

Mo. No. 2018-804
The People &c.,
Respondent,
v.
Steven Berrezueta,
Appellant.

Motion by Ken Onion et al. for leave to file a brief amici curiae on the motion herein denied.

3 Mo. No. 2018-744
In the Matter of David Brian Brasher,
Appellant,
v.
Sam Dell's Dodge Corporation, et al.,
Respondents.
Workers' Compensation Board,
Respondent.
(And Another Related Claim.)

On the Court's own motion, appeal dismissed,
without costs, upon the ground that the March 2018
Appellate Division order appealed from does not
finally determine the proceedings within the meaning
of the Constitution.
Motion for leave to appeal dismissed upon the
ground that the June 2018 Appellate Division order
sought to be appealed from does not finally
determine the proceedings within the meaning of the
Constitution.

2 Mo. No. 2018-707
The People &c.,
Respondent,
v.
Gary Brown,
Appellant.

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

3 Mo. No. 2018-714
In the Matter of Catskill Heritage Alliance,
Inc., et al.,
Appellants,
v.
New York State Department of
Environmental Conservation et al.,
Respondents.

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

1 Mo. No. 2018-695
Kelly Coffey,
Respondent,
v.
CRP/Extell Parcel I, L.P., et al.,
Appellants,
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 Feinman took no part.

1 Mo. No. 2018-701
Concourse Rehabilitation & Nursing Center,
Inc.,
 Appellant,
 v.
Nirav R. Shah, &c. et al.,
 Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2018-581
Deutsche Bank National Trust Company, &c.,
 Appellant,
 v.
Barclays Bank PLC,
 Respondent.

Motion for leave to appeal granted.
Judge Garcia took no part.

Deutsche Bank National Trust Company, &c.,
 Appellant,
 v.
HSBC Bank USA, National Association,
 Respondent.

3 Mo. No. 2018-914
In the Matter of Elaine DeVera, &c., et al.,
 Petitioners,
Susana Taveras, &c., et al.,
 Respondents,
 v.
Maryellen Elia, &c., et al.,
 Appellants.

Motion by Joel Klein 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. 2018-922
In the Matter of Elaine DeVera, &c., et al.,
 Petitioners,
Susana Taveras, &c., et al.,
 Respondents,
 v.
Maryellen Elia, &c., et al.,
 Appellants.

Motion by Achievement First Brooklyn Charter Schools, 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.

2 Mo. No. 2018-713
The People &c.,
 Respondent,
 v.
Lisa Dilillo,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2018-693
Luisa C. Esposito,
 Appellant,
 v.
Allen H. Isaac, &c., et al.,
 Respondents.

Motion for reargument of motion for leave to appeal denied.

4 Mo. No. 2018-663
Lorna Forbes, &c.,
 Appellant,
 v.
Caris Life Sciences, Inc., et al.,
 Respondents.

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

1 Mo. No. 2018-687
GKK 2 Herald LLC,
 Appellant,
 v.
City of New York Tax Appeals Tribunal et
al.,
 Respondents.

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

3 Mo. No. 2018-923
In the Matter of Miguel Gonzalez,
 Appellant,
 v.
Anthony J. Annucci, &c.,
 Respondent.

Motion by The Legal Aid Society et al. for leave to file a brief amici 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.

1 Mo. No. 2018-739
John P. Gourary, &c.,
 Appellant,
 v.
Elizabeth Laster, &c. et al.,
 Respondents,
et al.,
 Defendants.

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

1 Mo. No. 2018-591
Daniel G. Hickey, Jr.,
 Appellant,
 v.
Steven E. Kaufman, P.C., et al.,
 Respondents.

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

4 Mo. No. 2018-679
In the Matter of Hope Day Care, LLC, et al.,
 Appellants,
 v.
New York State Office of Children & Family
Services, Division of Child Care Services,
 Respondent.

Motion for leave to appeal denied.
Cross motion to vacate stay dismissed as academic.

1 Mo. No. 2018-725
Johnathan Johnson,
Appellant,
v.
Donald David, &c.,
Respondent.

Motion for reargument denied.
Motion for poor person relief dismissed as academic.

1 Mo. No. 2018-903
The People &c.,
Respondent,
v.
Damian Jones,
Appellant.

Motion by Center for Appellate Litigation, 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.

1 Mo. No. 2018-916
In the Matter of New York City Asbestos
Litigation.
Mary Juni, &c.,
Appellant,
v.
A.O. Smith Water Products Co., et al.,
Defendants,
Ford Motor Company,
Respondent.

Motion by John Henderson Duffus, et al. for leave to file a brief amici 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.
Judges Garcia and Feinman took no part.

2 Mo. No. 2018-682
Feng Li, et al.,
Appellants,
v.
Diana Peng, &c., et al.,
Respondents.

On the Court's own motion, appeal dismissed, without costs, upon the ground that no substantial constitutional question is directly involved.
Motion for leave to appeal denied.

3 Mo. No. 2018-721
The People &c.,
Respondent,
v.
James C. Liddle,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2018-736
In the Matter of Jackson Metellus,
Appellant,
v.
Anthony J. Annucci, &c., et al.,
Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2018-705
Jill Meyer,
Appellant,
v.
Howard A. Zucker, &c., et al.,
Respondents.

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

1 Mo. No. 2018-626
Nadkos, Inc.,
Appellant,
v.
Preferred Contractors Insurance Company
Risk Retention Group LLC,
Respondent,
et al.,
Defendant.

Motion for leave to appeal granted.

2 Mo. No. 2018-738
Option One Mortgage,
 Plaintiff,
 v.
Jose Luis Rodriguez-Cardona,
 Appellant,
et al.,
 Defendants;
21st Mortgage Corporation,
 Intervenor-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.

4 Mo. No. 2018-754
In the Matter of Sean P.

Motion for leave to appeal denied.

Onondaga County Department of Children
and Family Services,
 Respondent;
Brandy P.,
 Respondent,
Sean P.,
 Appellant.

1 Mo. No. 2018-698
Anna Pezhman,
 Appellant,
 v.
Chanel, 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.
Judge Feinman took no part.

2 Mo. No. 2018-787
The People &c. ex rel. Evans D. Prieston, on
behalf of Kenel Beaubrun,
 Respondent,
 v.
Nassau County Sheriff's Department,
 Appellant.

Motion for leave to appeal granted.

1 Mo. No. 2018-779
The People &c. ex rel. Jose Ramirez,
Appellant,
v.
Joseph Aponte, &c., et al.,
Respondent.

Motion for reconsideration of this Court's June 26,
2018 dismissal order denied.

1 Mo. No. 2018-780
In the Matter of Jose Joaquin Ramirez,
Appellant,
v.
George Grasso &c.,
Respondent.

Motion for reconsideration of this Court's June 26,
2018 dismissal order denied.

4 Mo. No. 2018-794
In the Matter of Walter J. Roache,
Appellant,
v.
Ann Marie T. Sullivan, &c.,
Respondent.

Motion for reargument of motion for leave to appeal
denied.

2 Mo. No. 2018-690
The People &c.,
Respondent,
v.
Zibeon Roundtree,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2018-899
The People &c.,
Respondent,
v.
Clarence Rouse,
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.

2 Mo. No. 2018-703
The People &c.,
Respondent,
v.
Robert Springs,
Appellant.

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

1 Mo. No. 2018-929
The People &c.,
Respondent,
v.
Saylor Suazo,
Appellant.

Motion by The Bronx Defenders, et al. for leave to file a brief amici 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.

1 Mo. No. 2018-750
The People &c.,
Respondent,
v.
Carlos Tapia,
Appellant.

Motion to dismiss appeal denied.

2 Mo. No. 2018-867
The People &c.,
Respondent,
v.
George Tsintzelis,
Appellant.

Motion for assignment of counsel granted and Justine M. Luongo, Esq., Attorney-in-Chief, Criminal Defense Practice, The Legal Aid Society, 199 Water Street, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2018-656
The People &c.,
Respondent,
v.
Matthew Vitiello,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2018-702
In the Matter of Patricia Walsh,
 Appellant,
 v.
New York State Comptroller et al.,
 Respondents.

Motion for leave to appeal granted.

1 Mo. No. 2018-708
In the Matter of the Estate of Chi-Chuan
Wang, Deceased.

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

Andrew Wang et al.,
 Appellants,
 v.
Yien Koo Wang King,
 Respondent.

4 Mo. No. 2018-757
In the Matter of Michelle Widrick,
 Appellant;
Michael Carpinelli, &c., et al.,
 Respondents.

Motion for reargument denied with one hundred
dollars costs and necessary reproduction
disbursements.

2 Mo. No. 2018-597
Shahla Zar,
 Appellant,
 v.
Nasser Yaghoobzar,
 Respondent.
(And a Related Proceeding)

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