

June 25, 2019

CASES

3 No. 79 SSM 12
In the Matter of Tyrell FF., &c.

Schenectady County Department of Social
Services,
 Respondent;
Jaquasisa GG.,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, appeal dismissed, without costs, upon the ground that the order appealed from does not finally determine the proceeding within the meaning of the Constitution. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

1 No. 50
John Kuzmich, et al.,
 Appellants,
 v.
50 Murray Street Acquisition LLC,
 Respondent.

Order reversed, with costs, defendant's motion for summary judgment denied, plaintiffs' motion for partial summary judgment seeking a declaration in their favor granted, case remitted to Supreme Court, New York County, for further proceedings in accordance with the opinion herein and certified question answered in the negative. Opinion by Judge Stein. Judges Rivera, Fahey, Garcia, Wilson and Feinman concur. Chief Judge DiFiore dissents and votes to affirm in an opinion.

3 No. 78 SSM 10
The People &c.,
 Respondent,
 v.
Edward Malloy, Also Known as EB,
 Appellant.

On review of the 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.

No. 53
Pangea Capital Management, LLC,
Appellant,
v.
John R. Lakian,
Respondent,
Andrea Lakian,
Intervenor-Respondent.

Following certification of questions by the United States Court of Appeals for the Second Circuit and acceptance of the questions by this Court pursuant to section 500.27 of this Court's Rules of Practice, and after hearing argument by counsel for the parties and consideration of the briefs and record submitted, first certified question answered in the negative and second certified question not answered.

Opinion by Judge Wilson.

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

3 No. 52
Tomhannock, LLC,
Respondent,
v.
Roustabout Resources, LLC,
Appellant,
et al.,
Defendants.

Order appealed from and order of the Appellate Division, Third Department, brought up for review affirmed, with costs, in a memorandum.

Chief Judge DiFiore and Judges Rivera, Fahey, Garcia, Wilson and Feinman concur.

Judge Stein took no part.

2 No. 55
The People &c.,
Respondent,
v.
Derrick Ulett,
Appellant.

Order reversed, defendant's motion pursuant to CPL 440.10 to vacate defendant's judgment of conviction and sentence granted and a new trial ordered.

Opinion by Judge Garcia.

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

1 No. 51
William T. West, et al.,
 Appellants,
 v.
B.C.R.E. - 90 West Street, LLC,
 Respondent,
Lee Rosen,
 Defendant.

Order reversed, with costs, defendant B.C.R.E. 90 - West Street, LLC's motion for summary judgment denied, plaintiffs' motion insofar as it sought summary judgment seeking a declaration in their favor granted, case remitted to Supreme Court, New York County, for further proceedings in accordance with the opinion herein and certified question answered in the negative.

Opinion by Judge Stein.

Judges Rivera, Fahey, Garcia, Wilson and Feinman concur.

Chief Judge DiFiore dissents and votes to affirm in an opinion.

MOTIONS

2 Mo. No. 2019-463
In the Matter of Akilah A.

Administration for Children's Services,
Respondent;
Bishme 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 a stay dismissed as academic.

3 SSD 38
In the Matter of Mia B., &c.

Jeffrey Weinhofer,
Respondent;
Amy Bafumo,
Appellant.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the two-Justice dissent at the Appellate Division is not on a question of law (see CPLR 5601[a]).

1 Mo. No. 2019-526
The People &c.,
Appellant,
v.
Rashid Bilal,
Respondent.

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 respondent on the appeal herein.

2 Mo. No. 2019-406
In the Matter of Ankhenaten Amen-Ra C.

Forestdale, Inc.,
Respondent;
Adanna J.C.,
Appellant,
et al.,
Respondent.
(And Two Other Proceedings.)

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

2 Mo. No. 2019-396
In the Matter of Adam D.

SCO Family of Services, et al.,
Respondents;
Victoria C.,
Appellant.
(And Two Other Proceedings.)

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

3 SSD 37
The People &c. ex rel. Echo Westley Dixon,
Appellant,
v.
R. Coveny, &c.,
Respondent.

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

4 Mo. No. 2019-420
In the Matter of Desire M. Euson,
Appellant,
v.
Dashawn Wright,
Respondent.
(And Another Proceeding.)

Motion for leave to appeal denied.

2 Mo. No. 2019-454
In the Matter of Zahimire E.G.

Dutchess County Department of Social
Services,
Respondent;
Lyasia R.B.,
Appellant.
(And Another Proceeding.)

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

4 SSD 41
In the Matter of the Estate of Andrew F.
Hartung, Deceased.

Alicia S. Calagiovanni, &c.,
Respondent,
v.
Joseph H. Hartung,
Appellant.

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

1 Mo. No. 2019-453
In the Matter of Richard I., Jr.,
Respondent,
v.
Darcel I.,
Appellant.

Motion for leave to appeal denied.

3 SSD 34
Robert Jones,
Appellant,
v.
State of New York,
Respondent.

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

4 Mo. No. 2019-336
Kaufmann's Carousel, Inc.,
Appellant,
v.
Carousel Center Company, L.P. et al.,
Respondents.

Motion for leave to appeal denied.

2 SSD 47
Keyspan Gas East Corporation, &c.,
 Plaintiff,
 v.
Supervisor of Town of North Hempstead, et
al.,
 Respondents,
County of Nassau, et al.,
 Appellants.
(Index No. 8194/10)

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

2 SSD 46
Keyspan Gas East Corporation, &c.,
 Plaintiff,
 v.
Supervisor of Town of North Hempstead, et
al.,
 Respondents,
County of Nassau, et al.,
 Appellants.
(Index No. 7269/02)

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

1 SSD 32
Gilbert Lau,
 Appellant,
 v.
Human Resources Administration, &c., et al.,
 Respondents.

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
meaning of the Constitution.

3 Mo. No. 2019-256
The People &c.,
 Respondent,
 v.
Michael Lavelle,
 Appellant.

Motion for leave to appeal dismissed upon the
ground that the order of the Appellate Division
sought to be appealed from has been vacated and
superseded by a subsequent order of that court.

3 Mo. No. 2019-493
The People &c.,
 Respondent,
 v.
Michael Lavelle,
 Appellant.

Motion for leave to appeal denied.

3 SSD 40
In the Matter of Mid Island Therapy
Associates, LLC, &c.,
 Appellant,
 v.
Thomas P. DiNapoli, &c., et al.,
 Respondents.

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

2 Mo. No. 2019-368
In the Matter of Tanisha M.M.

Toni D.S.,
 Respondent;
Administration for Children's Services et al.,
 Respondents;
Anthony M.,
 Appellant.
(And Another Proceeding.)

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

1 SSD 42
In the Matter of MSK Realty Interests, LLC,
 Appellant,
 v.
Department of Finance of the City of New
York,
 Respondent.

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

4 Mo. No. 2019-426
In the Matter of Luckee D. Nordee,
 Appellant,
 v.
Kilsie C. Nordee,
 Respondent.

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

3 Mo. No. 2019-357
In the Matter of the Claim of Sandra L.
O'Donnell,
Respondent,
v.
Erie County et al.,
Appellants.
Workers' Compensation Board,
Respondent.

Motion, insofar as it seeks to dismiss the appeal,
denied; motion, insofar as it seeks an order
"confirming its authority to correct its decision" and
related relief, dismissed upon the ground that the
Court does not have jurisdiction to entertain it (see
NY Const, art VI, § 3).

4 Mo. No. 2019-398
In the Matter of Onondaga County
Department of Social Services, &c.,
Respondent,
v.
Marcus N.D.,
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.

3 Mo. No. 2019-367
In the Matter of Benjamin OO.,
Appellant,
v.
Latasha OO.,
Respondent.

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

2 Mo. No. 2019-403
In the Matter of Jeffrey J.P., Jr.

Administration for Children's Services,
Respondent;
Anna A.,
Appellant.
(And Two Other Related Proceedings.)

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

4 Mo. No. 2019-400
In the Matter of Scott P., &c.,
Appellant,
v.
State of New York, et al.,
Respondents.

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

SSD 35

James Pettus,
Appellant,
v.
Imperial Parking Systems, Inc.,
Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that it does not lie (see NY Const, art VI, § 3[b]; CPLR 5601).

SSD 36

James Pettus,
Appellant,
v.
Board of Directors et al.,
Respondents.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that it does not lie (see NY Const, art VI, § 3[b]; CPLR 5601).

4 Mo. No. 2019-415
In the Matter of Eden S., et al.

Motions for leave to appeal denied.

Cayuga County Department of Health and
Human Services,
Respondent;
Joshua S.,
Appellant.

In the Matter of Eden S., et al.

Cayuga County Department of Health and
Human Services,
Respondent;
Crystal S.,
Appellant.

2 SSD 33
In the Matter of Barry Schweig, et al.,
Appellants,
v.
City of New Rochelle, et al.,
Respondents.

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

1 SSD 39
The Church of Jesus Christ of Latter-Day
Saints, Servant: Xiu Juan Sun, The Spiritual
Adam,
 Appellant,
 v.
Wu Hua Jing, &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.

2 SSD 45
Verizon New York, Inc., &c.,
 Plaintiff,
 v.
Supervisors of Town of North Hempstead, et
al.,
 Respondents,
County of Nassau, et al.,
 Appellants.

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

1 Mo. No. 2019-310
Wilmington Savings Fund Society, FSB, &c.,
 Respondent,
 v.
Sharay Hayes,
 Appellant,
et al.,
 Defendants.

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