

June 27, 2019

CASES

1 No. 57
The People &c.,
 Respondent,
 v.
Emmanuel Almonte,
 Appellant.

Order affirmed, in a memorandum.
Judges Stein, Fahey, Garcia and Feinman concur.
Judge Rivera dissents in an opinion.
Judge Wilson dissents in a separate dissenting
opinion.
Chief Judge DiFiore took no part.

3 No. 54
The People &c.,
 Appellant,
 v.
Arthur W. Ellis Jr.,
 Respondent.

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

1 No. 80 SSM 13
The People &c.,
 Respondent,
 v.
Rayheame Hill,
 Appellant.

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

4 No. 58
The People &c.,
 Respondent,
 v.
James R. McIntosh,
 Appellant.

Order affirmed, in a memorandum.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Garcia, Wilson and Feinman concur.

3 No. 56
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.

Judgment reversed, with costs, determination of
respondent Tax Appeals Tribunal of the State of New
York confirmed and petition dismissed.
Opinion by Judge Feinman.
Chief Judge DiFiore and Judges Rivera and Garcia
concur.
Judge Stein concurs in result in an opinion.
Judge Fahey dissents in an opinion.
Judge Wilson dissents in a separate dissenting
opinion.

MOTIONS

3 Mo. No. 2019-376
In the Matter of Ally Financial, Inc.,
 Respondent,
 v.
All County Towing and Recovery,
 Appellant,
et al.,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2019-462
The People &c.,
 Respondent,
 v.
Derrell Austin,
 Appellant.

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

2 Mo. No. 2019-457
Bank of NY,
 Respondent,
 v.
Heather Y. Harper,
 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.

2 Mo. No. 2019-436
In the Matter of Anthony E. Berg,
 Appellant,
 v.
Mary E. Berg,
 Respondent.

Motion for reargument of motion for leave to appeal
denied.

2 Mo. No. 2019-432
Emily Berger, &c., et al.,
 Appellants,
et al.,
 Plaintiffs,
 v.
Prospect Park Residence, LLC, et al.,
 Defendants,
New York State Department of Health, et al.,
 Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2019-392
In the Matter of Matthew Boder,
 Respondent,
 v.
James P. O'Neill, &c., et al.,
 Appellants.

Motion for leave to appeal denied.

2 Mo. No. 2019-447
Stephen Bradley,
 Respondent,
 v.
William Penn Life Insurance Company of
New York,
 Appellant,
et al.,
 Defendant.

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

4 Mo. No. 2019-405
In the Matter of Dennis Brennan,
 Appellant,
 v.
Michael C. Green, &c. et al.,
 Respondents.

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

4 Mo. No. 2019-372
The People &c.,
 Respondent,
 v.
Robert J. Caleb,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2019-417
The People &c.,
 Respondent,
 v.
Chad Dworkowitz,
 Appellant.

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

2 Mo. No. 2019-438
The People &c.,
 Respondent,
 v.
Michael Eisenberg,
 Appellant.

Motion for leave to appeal denied.
Chief Judge DiFiore took no part.

1 Mo. No. 2019-435
In the Matter of Will of Sydney H. Fields,
Deceased.

Richard Fields,
 Appellant,
 v.
Diana Palmeri,
 Respondent.

Motion for reargument denied.

3 Mo. No. 2019-441
In the Matter of Trevis L. Funches,
 Appellant,
 v.
State of New York Department of Corrections
and Community Supervision,
 Respondent.

Motion for reargument of motion for leave to appeal
denied.

2 Mo. No. 2019-348
Greenport Group, LLC et al.,
 Appellants,
 v.
Town Board of the Town of Southold,
 Respondent.

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

3 Mo. No. 2019-307
In the Matter of Zebadiah Hart,
 Appellant,
 v.
Anthony Rodriguez, &c.,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2019-413
Xue Jie He,
 Appellant,
 v.
Guttenberg NJ Police, et al.,
 Respondents.

Motion for leave to appeal dismissed upon the ground that it does not lie (see NY Const, art VI, § 3).
Motion for poor person relief dismissed as academic.

1 Mo. No. 2019-423
High Value Trading, LLC, et al.,
 Respondents,
 v.
Jack Shaoul et al.,
 Appellants.

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

4 Mo. No. 2019-402
The People &c.,
 Respondent,
 v.
Kenneth Houck,
 Appellant.

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

3 Mo. No. 2019-375
In the Matter of HVT, Inc.,
 Respondent,
 v.
All County Towing and Recovery,
 Appellant,
et al.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2019-350
In the Matter of Richard Kleinknecht et al.,
 Respondents,
 v.
James Siino, &c.,
 Appellant.

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

1 Mo. No. 2019-387
In the Matter of Natalie Krodel,
 Respondent,
 v.
Amalgamated Dwellings Inc.,
 Appellant,
et al.,
 Respondents.

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

1 Mo. No. 2019-399
Metrosearch Recoveries, LLC,
 Appellant,
 v.
City of New York, et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2019-419
Jill Meyer, &c.,
 Appellant,
 v.
State of New York Office of Mental Health,
 Respondent,
et al.,
 Defendants.

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

2 Mo. No. 2019-422
Marva Nelson, &c.,
Appellant,
v.
New York City Transit Authority et al.,
Respondents,
et al.,
Defendant.

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

3 Mo. No. 2019-391
Vinod Patel,
Appellant,
v.
State of New York,
Respondent.

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

2 Mo. No. 2019-434
Kevin Phillip,
Appellant,
v.
State of New York,
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 poor person relief dismissed as academic.

1 Mo. No. 2019-479
In the Matter of Regina Metropolitan Co.,
LLC,
Respondent,
v.
New York State Division of Housing and
Community Renewal,
Appellant,
Leslie E. Carr et al.,
Intervenors-Respondents.

Motion to strike granted to the extent that Points II and III of the brief filed by respondents Leslie E. Carr et al. are stricken and respondents Leslie E. Carr et al. are directed to file and serve a revised brief within twenty days.

1 Mo. No. 2019-425
City of New York,
Respondent,
v.
Shellbank Restaurant Corporation,
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.

1 Mo. No. 2019-421
Silvio Spallone,
 Respondent,
 v.
Frank Spallone,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2019-377
In the Matter of Saleem Spencer,
 Appellant,
 v.
Anthony Annucci, &c.,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2019-408
Jacqueline Shabot Svatovic,
 Respondent,
 v.
Zarko Svatovic,
 Appellant.
(And Another Action.)

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as dismissed the appeal from the September 2017 Supreme Court order of transfer, dismissed upon the ground that such portion of the order sought to be appealed from does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

1 Mo. No. 2019-446
In the Matter of Peter G. Terian, Deceased.

Juliana C. Terian,
 Respondent,
Thomas J. Killeen,
 Petitioner,
 v.
Robert Wurmbrand,
 Appellant.

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

2 Mo. No. 2019-388
Helen Webster,
 Appellant,
 v.
Rochelle Sherman, et al.,
 Defendants,
Tenzer and Lunin, LLP,
 Respondent.

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Scott White et al.,
 Appellants,
 v.
Mark P. Plexousakis, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, Second Department, upon the ground that a direct appeal does not lie when questions other than the constitutional validity of a statutory provision are involved (see NY Const, art VI, §§ 3[b][2], 5[b]; CPLR 5601[b][2]).