

October 27, 2015

**CASES**

1                    No. 130  
The People &c.,  
    Respondent,  
    v.  
Raymond Denson,  
    Appellant.

Order affirmed.  
Opinion by Judge Fahey.  
Chief Judge Lippman and Judges Rivera, Abdus-Salaam and Stein concur.  
Judge Pigott dissents in an opinion.

4                    No. 132  
The People &c.,  
    Appellant,  
    v.  
Terrance L. Mack,  
    Respondent.

Reargument ordered and case set down for argument during a future session of this Court.  
Chief Judge Lippman and Judges Pigott, Rivera, Abdus-Salaam, Stein and Fahey concur.

1                    No. 203 SSM 19  
The People &c.,  
    Respondent,  
    v.  
Edwin Mendez,  
    Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and indictment dismissed, with leave to the People, if they be so advised, to resubmit the charge of assault in the second degree to a new grand jury, in a memorandum.  
Chief Judge Lippman and Judges Pigott, Rivera, Abdus-Salaam, Stein and Fahey concur.

2                    No. 133  
The People &c.,  
    Appellant,  
    v.  
Kenneth Nealon,  
    Respondent.

Order reversed and case remitted to the Appellate Division, Second Department, for consideration of the facts and issues raised but not determined on the appeal to that court.  
Opinion by Judge Fahey.  
Judges Pigott, Abdus-Salaam and Stein concur.  
Chief Judge Lippman dissents and votes to affirm in an opinion in which Judge Rivera concurs.

1                    No. 194  
In the Matter of Patrolmen's Benevolent  
Association of the City of New York, Inc., et  
al.,  
    Appellants,  
    v.  
City of New York, et al.,  
    Respondents.

Order reversed, without costs, and matter remitted to Supreme Court, New York County, with directions to dismiss the proceeding upon the ground of mootness (see Matter of Hearst Corp. v Clyne, 50 NY2d 707, 718 [1980]).  
Chief Judge Lippman and Judges Pigott, Rivera, Abdus-Salaam, Stein and Fahey concur.

2                    No. 204 SSM 21  
The People &c.,  
    Appellant,  
    v.  
Tyson Sydoriak,  
    Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, Second Department, for consideration of the facts and issues raised but not determined on the appeal to that court, in a memorandum.  
Judges Pigott, Abdus-Salaam, Stein and Fahey concur.  
Chief Judge Lippman dissents in a memorandum in which Judge Rivera concurs.

2                    No. 134  
The People &c.,  
    Respondent,  
    v.  
Rhian Taylor,  
    Appellant.

Order reversed and a new trial ordered.  
Opinion by Judge Abdus-Salaam.  
Judges Pigott, Stein and Fahey concur.  
Judge Rivera concurs in result in a separate opinion  
in which Chief Judge Lippman concurs.

3                    No. 142  
In the Matter of George Texeira,  
    Appellant,  
    v.  
Brian Fischer, &c.,  
    Respondent.

Order, insofar as appealed from, affirmed, without  
costs.  
Opinion by Judge Rivera.  
Chief Judge Lippman and Judges Pigott, Abdus-  
Salaam and Fahey concur.  
Judge Stein took no part.

4                    No. 147  
The People &c.,  
    Respondent,  
    v.  
Christopher E. Walker,  
    Appellant.

Order reversed and indictment dismissed, with leave  
to the People, if they be so advised, to resubmit the  
charge of manslaughter in the first degree to a new  
grand jury.  
Opinion by Judge Stein.  
Chief Judge Lippman and Judges Pigott, Rivera,  
Abdus-Salaam and Fahey concur.

## MOTIONS

1                    Mo. No. 2015-1035  
In the Matter of B&M Kingstone, LLC,  
                         Respondent,  
                         v.  
Mega International Commercial Bank Co.,  
Ltd.,  
                         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.

4                    Mo. No. 2015-1021  
In the Matter of Shameckia L. Blue,  
                         Respondent,  
                         v.  
Darryl F. Caldwell,  
                         Appellant,  
et al.,  
                         Respondent.

Motion, insofar as it seeks leave to appeal from the Appellate Division order affirming the Supreme Court order settling the record on appeal, dismissed upon the ground that such order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.

3                    Mo. No. 2015-1033  
Bluff Point Townhouse Owners Association,  
Inc.,  
                         Respondent,  
                         v.  
Lisa Kapsokafalos, et al.,  
                         Appellants.

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

3                    Mo. No. 2015-1006  
The People &c.,  
                         Respondent,  
                         v.  
Jason Bower,  
                         Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2015-1037  
In the Matter of Celso L. Castillo,  
                  Appellant,  
          v.  
John B. Latella, &c.,  
                  Respondent.

Motion for leave to appeal dismissed for failure to demonstrate timeliness as required by Rules of the Court of Appeals (see 22 NYCRR 500.22[b][2]).  
Motion for poor person relief dismissed as academic.

3                    Mo. No. 2015-1047  
In the Matter of Constellation Nuclear Power  
Plants LLC,  
                  Appellant,  
          v.  
Tax Appeals Tribunal of the State of New  
York 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. 2015-1066  
Matthew Evans,  
                  Appellant,  
          v.  
State of New York,  
                  Respondent.

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

1                    Mo. No. 2015-1005  
The People &c.,  
                  Respondent,  
          v.  
Keith Fair,  
                  Appellant.

Motion for leave to appeal denied.

4                    Mo. No. 2015-1015  
In the Matter of George Eastman House, Inc.,  
&c.,  
                  Appellant,  
          v.  
Morgan Management, LLC, et al.,  
                  Respondents.

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

2 Mo. No. 2015-1060  
Green Apple Management Corp.,  
Respondent,  
v.  
John Aronis,  
Respondent,  
Dimitrios Tsiavos,  
Appellant.

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

4 Mo. No. 2015-1018  
Andrew J. Hain, &c.,  
Respondent,  
v.  
Angela J. Jamison, et al.,  
Appellants,  
Drumm Family Farm, Inc.,  
Respondent.

Motion for leave to appeal granted.

1 Mo. No. 2015-1020  
Paul Hsu, et al.,  
Appellants,  
v.  
Liu & Shields LLP, et al.,  
Respondents.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order as dismissed the appeal from the October 2013 Supreme Court order, dismissed upon the ground that such portion of the order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.  
Motion for poor person relief dismissed as academic.

2 Mo. No. 2015-1086  
The People &c. ex rel. James Jones,  
Appellant,  
v.  
Michael Capra, &c.,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2015-986  
S.L. (Anonymous),  
Appellant,  
v.  
J.R. (Anonymous),  
Respondent.

Motion for leave to appeal granted.

2 Mo. No. 2015-1055  
S.L. (Anonymous),  
Appellant,  
v.  
J.R. (Anonymous),  
Respondent.

Motion by the Domestic Violence Legal Empowerment and Appeals Project et al. for leave to appear amici curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.

2 Mo. No. 2015-1059  
LaSalle National Bank Association, &c.,  
Respondent,  
v.  
Tatiana Odato,  
Appellant,  
et al.,  
Defendants.

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. 2015-1002  
Lynn Lew,  
Appellant,  
v.  
Manhasset Public Library, et al.,  
Respondents.

Motion, insofar as it seeks leave to appeal from the Appellate Division order denying reargument or leave to appeal to this Court, dismissed upon the ground that such order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

2 Mo. No. 2015-712  
Miranda M. Malone, et al., &c.,  
Appellants,  
v.  
County of Suffolk, et al.,  
Defendants,  
Stan Xuhui Li, &c.,  
Respondent.

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

3 Mo. No. 2015-1090  
In the Matter of Leo A. Marino,  
Appellant,  
v.  
Daniel Martuscello Jr., &c.,  
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2015-1022  
Donna M. Matsch,  
Appellant,  
v.  
Chemung County Department of Public  
Works et al.,  
Respondents.

Motion, insofar as it seeks leave to appeal from the Appellate Division order denying leave to appeal to this Court, dismissed upon the ground that such order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

2 Mo. No. 2015-1017  
Karen Meredith, &c.,  
Appellant,  
v.  
Siben & Siben, LLP,  
Respondent.

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

2 Mo. No. 2015-1011  
Wilhelm Noel,  
Appellant,  
v.  
Bryan Tyler,  
Respondent.

Motion for leave to appeal denied.  
Motion for a stay dismissed as academic.  
Cross motion for the imposition of sanctions denied.

4                    Mo. No. 2015-1023  
In the Matter of Richard H. Peeso,  
                          Appellant,  
                          v.  
Barbara J. Fiala, &c.,  
                          Respondent.

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

3                    Mo. No. 2015-987  
In the Matter of Brittany R. et al., &c.  
  
Schoharie County Department of Social  
Services,  
                          Respondent;  
Annemarie R.,  
                          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.

4                    Mo. No. 2015-1068  
In the Matter of Arkadian S., et al.  
  
Cayuga County Department of Health and  
Human Services,  
                          Respondent;  
Crystal S.,  
                          Respondent;  
Joshua S.,  
                          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.

1                    Mo. No. 2015-1027  
Jeffrey Silver,  
                          Appellant,  
                          v.  
Whitney Partners LLC, et al.,  
                          Respondents.

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

2 Mo. No. 2015-1048  
Carlayne Sims,  
Appellant,  
v.  
City 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.

3 Mo. No. 2015-991  
In the Matter of Vanita UU.,  
Respondent,  
v.  
Mahender VV.,  
Appellant.  
(And Other Proceedings.)

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order as affirmed the Family Court order dismissing the violation petition, dismissed upon the ground that such portion of the order does not finally determine a proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.

2 Mo. No. 2015-1012  
Barbara L. Vannatta,  
Appellant,  
v.  
Village of Otisville,  
Respondent.

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

2 Mo. No. 2015-998  
Patricia Warmhold,  
Appellant,  
v.  
Michael Zagarino, 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.  
Motion for poor person relief dismissed as academic.

2                    Mo. No. 2015-1004  
In the Matter of Westchester County  
Department of Social Services, on behalf of  
Pauline M. B. (Anonymous),  
                  Respondent,  
          v.  
Arnoldo B. (Anonymous),  
                  Respondent;  
Alexcuis M.B. (Anonymous),  
                  Nonparty-Appellant;  
Pauline M.B. (Anonymous),  
                  Nonparty-Respondent.

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

4                    Mo. No. 2015-1013  
In the Matter of John Williams,  
                  Respondent,  
          v.  
Peter Troiano, &c.,  
                  Respondent,  
Stephanie A. Miner, &c., et al.,  
                  Appellants.

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