

State of New York
Court of Appeals

Decisions

April 28, 2022

CASES

4 No. 26
David M. Bonczar,
 Appellant,
 v.
American Multi-Cinema, Inc., &c.,
 Respondent.

The 2020 order of the Appellate Division affirmed, with costs, in a memorandum. Chief Judge DiFiore and Judges Rivera, Garcia, Wilson, Singas and Cannataro concur. Judge Troutman took no part.

1 No. 25
Michael Cutaia,
 Respondent,
 v.
The Board of Managers of the 160/170 Varick
Street Condominium, et al.,
 Defendants,
The Rector, Church Wardens and Vestrymen
of Trinity Church in the City of New York, et
al.,
 Appellants.

Order reversed, with costs, plaintiff's motion for partial summary judgment on his Labor Law § 240 (1) claim denied and certified question answered in the negative, in a memorandum. Chief Judge DiFiore and Judges Garcia, Singas and Cannataro concur. Judge Wilson dissents in an opinion, in which Judges Rivera and Troutman concur.

Michilli Construction, Inc. et al.,
 Third-Party Appellants,
 v.
A+ Installations Corp.,
 Third-Party Defendant.
(And Other Actions.)

4 No. 27
James Healy,
 Respondent,
 v.
EST Downtown, LLC, c/o First Amherst
Development Group,
 Appellant.

Order reversed, with costs, plaintiff's motion for partial summary judgment on his Labor Law § 240 (1) claim denied and defendant's motion for summary judgment dismissing the Labor Law § 240 (1) claim granted, in a memorandum. Chief Judge DiFiore and Judges Rivera, Garcia, Wilson, Singas, Cannataro and Troutman concur.

MOTIONS

1 Mo. No. 2022-95
A.A., &c.,
 Appellant,
 v.
New York City Health and Hospitals
Corporation (Jacobi Hospital Center),
 Respondent.

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

1 Mo. No. 2022-96
Edward A. Amley, Jr.,
 Appellant,
 v.
Xixi Yin Amley, &c.,
 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. 2022-102
Anonymous,
 Respondent,
 v.
Anonymous,
 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. 2022-101
The People &c.,
 Respondent,
 v.
Darrell Bolden,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2022-133
Robert Budwilowitz,
 Appellant,
 v.
Marc Nichols Associates et al.,
 Respondents.

Motion for reargument denied.
Judge Troutman took no part.

1 Mo. No. 2022-59
In the Matter of Michelle Carter,
 Appellant,
 v.
New York City Employees' Retirement
System, et al.,
 Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2022-127
In the Matter of Alexandra Perez Cid, &c.,
 Respondent,
 v.
Patrick DiSanto,
 Appellant.

Motion for reargument of motion for leave to appeal
denied.
Judge Troutman took no part.

3 Mo. No. 2022-209
In the Matter of Rashod Coston,
 Appellant,
 v.
James P. Thompson, &c.,
 Respondent.

Motion to vacate this Court's February 2, 2022
dismissal order denied.

3 Mo. No. 2022-78
Philomena Curley,
 Respondent,
 v.
Charles M. Curley,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2022-139
Patricia Turso Drasche,
 Appellant,
 v.
Edelman & Edelman, P.C., et al.,
 Respondents.

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

4 Mo. No. 2022-99
Mary E. Durkin, &c.,
Appellant,
v.
John Petrie,
Respondent.

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

1 Mo. No. 2022-47
Felix Glaubach, &c.,
Appellant,
v.
Graubard Miller, et al.,
Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2022-90
The People &c.,
Respondent,
v.
Arcadio Gonzalez,
Appellant.

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

3 Mo. No. 2022-89
The People &c.,
Respondent,
v.
Gary Green,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2022-94
The People &c.,
Respondent,
v.
Joseph Grunwald,
Appellant.

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

1 Mo. No. 2022-62
In the Matter of Dellon Hall,
Appellant,
v.
Dermot Shea, &c., et al.,
Respondents.

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

1 Mo. No. 2022-100
Eglee Canizalez Karam,
Appellant,
v.
Oswaldo Karam,
Respondent.

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

1 Mo. No. 2022-51
Gregory D. Kilpatrick,
Appellant,
v.
Sahar Kamkar, &c.,
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. 2022-52
Gregory D. Kilpatrick,
Appellant,
v.
Jennifer L. Henkin, &c.,
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. 2022-53
Gregory D. Kilpatrick,
Appellant,
v.
Fabio Volterra, &c.,
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. 2022-54
Gregory D. Kilpatrick,
Appellant,
v.
Leslie M. Arp, &c. 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.

4 Mo. No. 2022-208
Ersin Konkur,
Appellant,
v.
Utica Academy of Science Charter School,
Defendant,
Turkish Cultural Center and High Way
Education, Inc.,
Respondent.

Motion for reargument denied with one hundred dollars costs and necessary reproduction disbursements.
Judge Troutman took no part.

1 Mo. No. 2022-65
Virginia Kovel,
Appellant,
v.
Glenwood Management Corp., et al.,
Respondents,
et al.,
Defendant.

Motion for leave to appeal denied.

1 Mo. No. 2022-71
The People &c.,
Respondent,
v.
Angel Lopez,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2022-243
Nella Manko,
Appellant,
v.
David A. Gabay, &c., et al.,
Respondents,
et al.,
Defendants.
(App. Div. No. 2016-13181)

Nella Manko,
Appellant,
v.
David A. Gabay, &c., et al.,
Respondents.
(App. Div. No. 2017-07541)

2 Mo. No. 2022-244
Nella Manko,
Appellant,
v.
Lenox Hill Anesthesiology, PLLC, et al.,
Respondents.

2 Mo. No. 2022-245
Nella Manko,
Appellant,
v.
Shorefront Apartments, LLC,
et al.,
Respondents.

3 Mo. No. 2022-126
Sean Moreland, &c.,
Appellant,
v.
State of New York,
Respondent.

Motion for reargument of so much of this Court's February 15, 2022 order as decided a motion for leave to appeal denied.
Motion for poor person relief dismissed as academic. Chief Judge DiFiore and Judge Troutman took no part.

Motion for reargument of so much of this Court's February 15, 2022 order as decided a motion for leave to appeal denied.
Motion for poor person relief dismissed as academic. Chief Judge DiFiore and Judge Troutman took no part.

Motion for reargument of motion for leave to appeal denied.
Motion for poor person relief dismissed as academic. Chief Judge DiFiore and Judge Troutman took no part.

Motion for leave to appeal denied.

1 Mo. No. 2022-92
Alexander Moskovits,
 Appellant,
 v.
Bank of America Merrill Lynch et al.,
 Respondents,
et al.,
 Defendants.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that affirmed, insofar as appealed from, the November 2020 Supreme Court order, denied; motion for leave to appeal otherwise dismissed upon the ground that the remaining portion of the Appellate Division order does not finally determine the action within the meaning of the Constitution.

1 Mo. No. 2022-168
In the Matter of Mount Builders, LLC,
 Appellant,
 v.
Margery Perlmutter, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2022-77
Usman Oyibo,
 Appellant,
 v.
Huntington Hospital Medical Center, 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.

3 Mo. No. 2022-79
In the Matter of James R. Pine Sr.,
 Appellant,
 v.
Anthony J. Annucci, &c.,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2022-84
Victoria Pistone, et al.,
 Respondents,
 v.
American Biltrite, Inc., &c.,
 Appellant,
Mannington Mills, Inc.,
 Appellant,
et al.,
 Defendants.

Motions 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. 2022-83
In the Matter of Daniel R. Pruchnicki, Jr.,
 Appellant,
 v.
Jennifer Taylor,
 Respondent.

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. 2022-50
S&T Bank,
 Respondent,
 v.
Top Capital of New York Brockport, LLC,
&c., et al.,
 Defendants,
Swan Tile and Marble, Inc., et al.,
 Appellants.

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

4 Mo. No. 2022-66
S&T Bank,
 Respondent,
 v.
Top Capital of New York Brockport, LLC,
&c., et al.,
 Defendants,
Swan Tile and Marble, Inc., et al.,
 Appellants.

Motion by Associated General Contractors of New York State, LLC for leave to appear amicus curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.
Judge Troutman took no part.

4 Mo. No. 2022-85
S&T Bank,
Respondent,
v.
Top Capital of New York Brockport, LLC,
&c., et al.,
Defendants,
Swan Tile and Marble, Inc., et al.,
Appellants.

Motion by Northeastern Subcontractors Association, Inc. for leave to appear amicus curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.
Judge Troutman took no part.

4 Mo. No. 2022-112
S&T Bank,
Respondent,
v.
Top Capital of New York Brockport, LLC,
&c., et al.,
Defendants,
Swan Tile and Marble, Inc., et al.,
Appellants.

Motion by Empire State Chapter of the Associated Builders and Contractors, Inc. for leave to appear amicus curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.
Judge Troutman took no part.

1 Mo. No. 2022-134
The People &c.,
Respondent,
v.
Joseph Saldana,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2022-147
The People &c.,
Respondent,
v.
Alexander Sanchez-Jimenez,
Appellant.

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

4 Mo. No. 2022-43
In the Matter of Montgomery Blair Sibley,
Appellant,
v.
Chauncey Joseph Watches,
Respondent.

Motion for reargument &c. denied.
Judge Troutman took no part.

1 Mo. No. 2022-104
The People &c.,
Respondent,
v.
Clifton Solomon,
Appellant.

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

1 Mo. No. 2021-994
Tax Equity Now NY LLC,
Appellant,
v.
City of New York et al.,
Respondents,
State of New York et al.,
Respondents.

Motion for leave to appeal granted.

1 Mo. No. 2021-995
Tax Equity Now NY LLC,
Appellant,
v.
City of New York et al.,
Respondents,
State of New York et al.,
Respondents.

Motion by Citizens Budget Commission for leave to appear amicus curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.

1 Mo. No. 2022-76
Tyrone Wallace,
Appellant,
v.
Tri-State Assembly, LLC et al.,
Defendants,
Amazon.com LLC et al.,
Respondents.

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

1 Mo. No. 2022-80

WDF Inc.,
Respondent,

v.

Vamco Sheet Metals, Inc.,
Appellant.

Vamco Sheet Metals, Inc.,
Third-Party Appellant,

v.

Fidelity and Deposit Company Maryland,
Third-Party Respondent.

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

1 Mo. No. 2022-73

Nicholas Weir,
Appellant,

v.

State of New York, 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 Rivera took no part.

3 Mo. No. 2022-87

Frankie E. Williams Sr.,
Appellant,

v.

Hudson NY LLC et al.,
Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2022-55

In the Matter of Jon Wilner,
Appellant,

v.

New York Department of State, Division of
Licensing Services,
Respondent.

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