

State of New York
Court of Appeals

Decisions

February 15, 2022

CASES

1 No. 5
In the Matter of Aurora Associates LLC,
 Appellant,
 v.
Raffaello Locatelli,
 Respondent,
Cleantech Strategies LLC, et al.,
 Respondents.

Order, insofar as appealed from, reversed, with costs, respondent Raffaello Locatelli's cross motion for summary judgment dismissing the petition denied, petitioner's motion for summary judgment granted, matter remitted to the Civil Court of the City of New York for further proceedings in accordance with the opinion herein and certified question answered in the negative.
Opinion by Judge Garcia.
Chief Judge DiFiore and Judges Singas and Cannataro concur.
Judge Wilson dissents in an opinion, in which Judge Rivera concurs.
Judge Troutman took no part.

1 No. 4
In the Matter of Robinson Callen, &c.,
 Respondent,
 v.
New York City Loft Board,
 Appellant,
Richard Fiscina, et al.,
 Respondents.
(And Another Proceeding.)

In each proceeding, order insofar as appealed from reversed, with costs, and matter remitted to the Appellate Division, First Department, with directions to remand to the New York City Loft Board for further proceedings in accordance with the memorandum herein.
Chief Judge DiFiore and Judges Rivera, Garcia, Wilson, Singas and Cannataro concur.
Judge Troutman took no part.

 No. 9
The People &c.,
 Respondent,
 v.
Vladimir Duarte,
 Appellant.

Order affirmed, in a memorandum.
Chief Judge DiFiore and Judges Garcia, Singas and Cannataro concur.
Judge Rivera dissents in an opinion, in which Judge Wilson concurs.
Judge Troutman took no part.

1 No. 7
In the Matter of Pedro Endara-Caicedo,
 Appellant,
 v.
New York State Department of Motor
Vehicles, et al.,
 Respondents.

Order affirmed, with costs.
Opinion by Chief Judge DiFiore.
Judges Garcia, Wilson, Singas and Cannataro concur.
Judge Rivera dissents in an opinion.
Judge Troutman took no part.

1 No. 15
The Moore Charitable Foundation, et al.,
 Appellants,
 v.
PJT Partners, Inc., et al.,
 Respondents,
et al.,
 Defendant.

Reargument ordered for a future Court session.
Judges Rivera, Garcia, Wilson, Singas, Cannataro
and Troutman concur.
Chief Judge DiFiore took no part.

MOTIONS

Mo. No. 2021-849
Jennifer Lynn Arce,
Appellant,
v.
Ilecki & Ostrowski, LLP,
Respondent.

Motion for leave to appeal dismissed upon the ground that it does not lie (*see* CPLR 5602 [a]).

2 Mo. No. 2021-950
Panagiotis Armatas,
Appellant,
v.
Alan C. Kestenbaum,
Defendant,
Qiana Smith-Williams,
Respondent.

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

4 Mo. No. 2021-941
Antonia Barone,
Appellant,
v.
James D. Haskins et al.,
Respondents,
et al.,
Defendants.

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

1 Mo. No. 2021-815
BGC Partners, Inc. et al.,
Appellants,
v.
Avison Young (Canada), Inc., 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.

1 Mo. No. 2021-904
Jose Rodriguez Bosquez,
 Plaintiff,
 v.
RXR Realty LLC, et al.,
 Defendants.

Hunter Roberts Construction Group, L.L.C.,
et al.,
 Third-Party Respondents,
 v.
Allran Electric of N.Y., LLC,
 Third-Party Defendant,
Global Iron Works, Inc.,
 Third-Party Appellant.

2 Mo. No. 2021-898
The People &c.,
 Respondent,
 v.
Kathleen Callanan,
 Appellant.

4 Mo. No. 2021-937
Centerline/Fleet Housing Partnership, L.P.,
&c., et al.,
 Appellants,
 v.
Hopkins Court Apartments, L.L.C., &c., et
al.,
 Respondents,
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.

Motion for leave to appeal dismissed as untimely (*see* CPLR 5513 [b]; *Matter of Haverstraw Park v Runcible Props. Corp.*, 33 NY2d 637, 637 [1973]).

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. 2021-1014
Citimortgage, Inc.,
 Respondent,
 v.
Maurice H. Oparaji, &c.,
 Appellant,
et al.,
 Defendants.

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

3 Mo. No. 2021-882
In the Matter of Karen G. Dowling,
 Appellant,
 v.
Colleen C. Gardner, &c.,
 Respondent.

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

2 Mo. No. 2021-873
Funding Metrics, LLC, &c.,
 Respondent,
 v.
D & V Hospitality, Inc.,
 Defendant,
Carl Vitellino,
 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.

4 Mo. No. 2021-894
The People &c.,
 Respondent,
 v.
Patrick Hackett,
 Appellant.

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

2 Mo. No. 2021-956
In the Matter of George Hersh, &c.

Esther Rachel Hersh,
 Appellant-Respondent;
Mark Hersh, et al.,
 Respondents-Appellants,
et al.,
 Respondents.

Motions for leave to appeal denied.

1 Mo. No. 2021-866

Epifania Hichez, et al.,
 Respondents,
 v.
United Jewish Council of the East Side,
Home Attendant Service Corp.,
 Appellant.

Motion for reargument of motion for leave to appeal
denied.

Judge Troutman took no part.

1 Mo. No. 2022-3

Tom Holland,
 Appellant,
 v.
Mahmoud Thiam et al.,
 Respondents.
(And Another Action.)

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

Motion for a stay dismissed as academic.

1 Mo. No. 2022-37

J.P. Morgan Securities Inc.,
et al.,
 Appellants,
 v.
Vigilant Insurance Company,
et al.,
 Respondents.

Motion for reargument denied.

Judge Troutman took no part.

2 Mo. No. 2021-875
Vassilios Kefalas et al.,
Appellants,
v.
Efsthathios Valiotis, et al.,
Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2022-12
Nella Manko,
Appellant,
v.
Dr. Dana Mannor, et al.,
Respondents,
Lenox Hill Hospital, &c. et al.,
Defendants.

Motion for reconsideration of this Court's November 18, 2021 dismissal order denied.
Motion for poor person relief dismissed as academic.
Chief Judge DiFiore and Judge Troutman took no part.

Nella Manko,
Appellant,
v.
Dana Mannor, et al.,
Respondents,
"Anesthesiologist" (a fictitious name), et al.,
Defendants.

2 Mo. No. 2022-29
Nella Manko,
Appellant,
v.
David A. Gabay, &c., et al.,
Respondents,
et al.,
Defendants.
(App. Div. No. 2016-13181)

Motion for reconsideration of this Court's December 22, 2020 dismissal order dismissed as untimely (*see* Rules of Ct of Appeals [22 NYCRR] § 500.24 [b]).
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.
Chief Judge DiFiore and Judge Troutman took no part.

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

2 Mo. No. 2022-30
Nella Manko,
Appellant,
v.
Lenox Hill Anesthesiology, PLLC, et al.,
Respondents.

Motion for reconsideration of this Court's December 22, 2020 dismissal order dismissed as untimely (*see* Rules of Ct of Appeals [22 NYCRR] § 500.24 [b]).
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. Chief Judge DiFiore and Judge Troutman took no part.

2 Mo. No. 2022-48
Nella Manko,
Appellant,
v.
Shorefront Apartments, LLC,
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. Chief Judge DiFiore took no part.

1 Mo. No. 2021-867
Jaime Alberto Mejia-Gonzales,
Appellant,
v.
Oliver S. Storch,
Respondent.

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

1 Mo. No. 2021-861
Reyes Merino,
Appellant,
v.
Wells Fargo Bank, N.A.,
Respondent.

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

1 Mo. No. 2021-916
The Mintz Fraade Law Firm, P.C.,
Appellant,
v.
Federal Insurance Company, &c.,
Respondent.

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

2 Mo. No. 2021-915
Domenico Monaco, &c.,
Appellant,
v.
Benjamin Van Meerendonk,
Respondent.

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

3 Mo. No. 2021-876
In the Matter of Andrew Mullings,
Appellant,
v.
William E. Lee, &c., et al.,
Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2021-837
In the Matter of New York State Correctional
Officers and Police Benevolent Association,
Inc. et al.,
Appellants,
New York State Department of Corrections
and Community Supervision,
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.
Chief Judge DiFiore took no part.

3 Mo. No. 2021-896
In the Matter of New York State Correctional
Officers and Police Benevolent Association,
Inc. et al.,
Appellants,
New York State Department of Corrections
and Community Supervision,
Respondent.

Motion by Civil Service Employees Association, Inc.
for leave to appear amicus curiae on the motion for
leave to appeal herein granted and the brief is
accepted as filed.
Chief Judge DiFiore took no part.

3 Mo. No. 2021-897
In the Matter of New York State Correctional
Officers and Police Benevolent Association,
Inc. et al.,
Appellants,
New York State Department of Corrections
and Community Supervision,
Respondent.

Motion by New York State Public Employees
Federation, AFL-CIO for leave to appear amicus
curiae on the motion for leave to appeal herein
granted and the brief is accepted as filed.
Chief Judge DiFiore took no part.

1 Mo. No. 2021-901
Anita Nurse,
Appellant,
v.
New York City Department of Education,
Respondent.

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

1 Mo. No. 2021-859
Kyrian Okoroafor, &c.,
Appellant,
v.
Emirates Airlines,
Respondent.

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

1 Mo. No. 2021-1015
James Pettus,
Appellant,
v.
Board of Directors, 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. 2021-926
In the Matter of Evelyn Pfeffer, &c.,
deceased.

Motion for reargument of motion for leave to appeal dismissed as untimely (*see* Rules of Ct of Appeals [22 NYCRR] § 500.24 [b]).
Judge Troutman took no part.

Mitchell Pfeffer,
Appellant,
Barbara Billauer,
Respondent,
et al.,
Respondent.
(And Another Proceeding.)

4 Mo. No. 2021-921
The People &c.,
Respondent,
v.
Michael Ray,
Appellant.

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

1 Mo. No. 2021-945
Roberto Romero, Jr.,
 Appellant,
 v.
Luis Javier Valdez 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.

3 Mo. No. 2021-852
James P. Scott,
 Appellant,
 v.
State of New York,
 Respondent.

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

4 Mo. No. 2021-906
Estate of Sharpsteen,
 Respondent,
 v.
Daniel J. Wik, &c.,
 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. 2021-863
The People &c.,
 Respondent,
 v.
Mark Smith,
 Appellant.

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

3 Mo. No. 2021-832
In the Matter of Town of Southampton et al.,
 Respondents,
et al.,
 Petitioner,
 v.
New York State Department of
Environmental Conservation et al.,
 Respondents,
Sand Land Corporation et al.,
 Appellants.

Motion for leave to appeal granted.
Motion for a stay granted.

3 Mo. No. 2021-865
In the Matter of Town of Southampton et al.,
 Respondents,
et al.,
 Petitioner,
 v.
New York State Department of
Environmental Conservation et al.,
 Respondents,
Sand Land Corporation et al.,
 Appellants.

Motion by New York Construction Materials
Association, Inc. for leave to appear amicus curiae
on the motion for leave to appeal herein granted and
the affirmation is accepted as filed.

1 Mo. No. 2021-847
Robert Stec,
 Appellant,
 v.
Passport Brands, Inc., et al.,
 Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2021-844
Heri Totaram,
 Respondent,
 v.
Debbie Gibson,
 Appellant,
et al.,
 Defendants.

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

2 Mo. No. 2021-848
U.S. Bank National Association, &c.,
 Respondent,
 v.
Edward A. Karnaby et al.,
 Appellants.

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. 2021-833
Christopher W., &c. et al.,
 Appellants,
 v.
County of Suffolk, et al.,
 Respondents,
et al.,
 Defendants.

Motion for leave to appeal denied.

3 Mo. No. 2021-912
The People &c.,
 Respondent,
 v.
Jonathan Waters,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2021-888
In the Matter of Wayne Center for Nursing
and Rehabilitation, LLC, et al.,
 Appellants,
 v.
Howard A. Zucker, &c., et al.,
 Respondents.

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

In the Matter of Richmond Center for
Rehabilitation & Specialty Healthcare, et al.,
 Appellants,
 v.
Howard A. Zucker, &c., et al.,
 Respondents.

1 Mo. No. 2021-922
The People &c.,
 Respondent,
 v.
Gilbert Welsh,
 Appellant.

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

1 Mo. No. 2021-886
The People &c.,
 Respondent,
 v.
Shawn Woodward,
 Appellant.

Motion for leave to appeal denied.