

November 21, 2013

CASES

No. 191

Gary Cruz, et al.,
Appellants,
v.
TD Bank, N.A.,
Respondent.

Geraldo F. Martinez, et al.,
Appellants,
v.
Capital One Bank, N.A.,
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 the record submitted, certified questions answered in accordance with the opinion herein.

Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

1 No. 180

Expedia, Inc., et al.,
Respondents,
Priceline.com Incorporated,
et al.,
Plaintiffs,
v.

The City of New York Department of
Finance, et al.,
Appellants.

Order reversed, with costs, and the order of Supreme Court, New York County, reinstated.

Opinion by Judge Rivera.
Chief Judge Lippman and Judges Graffeo, Read and Smith concur.
Judge Pigott dissents in part in an opinion in which Judge Abdus-Salaam concurs.

1 No. 255 SSM 28

The People &c.,
Respondent,
v.

Wilson Feliciano,
Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

2 No. 174
The People &c.,
 Respondent,
 v.
Martin Heidgen,
 Appellant.
(Ind. No. 1910N/05)

Order affirmed.
Opinion by Chief Judge Lippman.
Judges Graffeo, Pigott, Rivera and Abdus-Salaam
concur.
Judge Smith dissents in an opinion in which Judge
Read concurs in a separate opinion.

2 No. 175
The People &c.,
 Respondent,
 v.
Martin Heidgen,
 Appellant.
(Ind. No. 1735N/07)

Order affirmed, in a memorandum.
Chief Judge Lippman and Judges Graffeo, Read,
Smith, Pigott, Rivera and Abdus-Salaam concur.

2 No. 177
The People &c.,
 Respondent,
 v.
Franklin McPherson,
 Appellant.

Order affirmed.
Opinion by Chief Judge Lippman.
Judges Graffeo, Pigott, Rivera and Abdus-Salaam
concur.
Judge Smith dissents in an opinion in which Judge
Read concurs in a separate opinion.

2 No. 183
The People &c. ex rel. John F. Ryan, on
Behalf of Richard Shaver,
 Respondent,
 v.
Kevin Cheverko, &c., et al.,
 Appellants.

Order affirmed, without costs.
Opinion by Judge Abdus-Salaam.
Chief Judge Lippman and Judges Graffeo, Read,
Smith, Pigott and Rivera concur.

2 No. 176
The People &c.,
 Respondent,
 v.
Taliyah Taylor,
 Appellant.

Order affirmed.
Opinion by Chief Judge Lippman.
Judges Graffeo, Pigott, Rivera and Abdus-Salaam
concur.
Judge Smith dissents in an opinion in which Judge
Read concurs in a separate opinion.

2 No. 187
The People &c.,
 Appellant,
 v.
Kevin W.,
 Respondent.

Order affirmed.
Opinion by Judge Read.
Chief Judge Lippman and Judges Graffeo, Pigott,
Rivera and Abdus-Salaam concur.
Judge Smith dissents and votes to reverse in an
opinion.

4 No. 203
The People &c.,
 Respondent,
 v.
Robert L. Worden,
 Appellant.

Order reversed, defendant's guilty plea vacated and
case remitted to Monroe County Court for further
proceedings on the indictment, in a memorandum.
Chief Judge Lippman and Judges Graffeo, Read,
Smith, Pigott, Rivera and Abdus-Salaam concur.

MOTIONS

2 Mo. No. 2013-1039
In the Matter of Baldwin Union Free School
District, et al.,
 Respondents,
 v.
County of Nassau,
 Appellant.
(And an Action and Another Proceeding.)

Motion to dismiss appeal denied.

2 Mo. No. 2013-1005
The People &c.,
 Respondent,
 v.
William Baluja,
 Appellant.

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

2 Mo. No. 2013-1017
Bank of America, N.A., &c.,
 Respondent,
 v.
Samuel L. Gowrie, et al.,
 Appellants,
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.

1 Mo. No. 2013-1010
In the Matter of Diamond Tyneshia B., &c.

Aisha K.,
 Appellant,
Daniel B.,
 Respondent,
Administration for Children's Services,
 Respondent.

Motion for leave to appeal denied.
Judge Abdus-Salaam took no part.

1 Mo. No. 2013-999
Nata Bob,
 Appellant,
 v.
Steve Cohen, et al.,
 Respondents.

Motion for leave to appeal denied.
Judge Abdus-Salaam took no part.

3 Mo. No. 2013-1037
In the Matter of Lekan J. Bowen,
 Appellant.
Commissioner of Labor,
 Respondent.

Motion for reargument of motion for leave to appeal
denied.

1 Mo. No. 2013-1013
In the Matter of Anna Ciano,
 Appellant,
 v.
Hon. Maxwell J. Wiley, &c. et al.,
 Respondents.

Motion for reargument of motion for leave to appeal
denied.
Judge Abdus-Salaam took no part.

1 Mo. No. 2013-725
In the Matter of Oscar Cintron,
 Appellant,
 v.
Judith A. Calogero, &c.,
 Respondent.

Motion for leave to appeal denied.

 Mo. No. 2013-1038
The People &c.,
 Respondent,
 v.
Patricia Fratangelo,
 Appellant.

Motion to vacate this Court's September 27, 2013
preclusion order granted.

3 Mo. No. 2013-1007
In the Matter of Keith Gadsen,
 Appellant,
 v.
Brian Fischer, &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 proceeding within the meaning of the Constitution.

4 Mo. No. 2013-835
In the Matter of Oman Gutierrez,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2013-1004
In the Matter of Joel Guzman,
 Appellant,
 v.
Thomas J. Spota, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2013-964
Hair Studio 441, Inc. et al.,
 Appellants,
 v.
Mario Boccone, et al.,
 Respondents.

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

1 Mo. No. 2013-1008
In the Matter of Danos Kallas,
 Appellant,
 v.
Barbara J. Fiala, &c.,
 Respondent.

Motion for leave to appeal denied.
Judge Abdus-Salaam took no part.

1 Mo. No. 2013-1012
In the Matter of Douglas Latta,
 Appellant,
 v.
Hon. Maxwell Wiley, &c. et al.,
 Respondents.

Motion for reargument of motion for leave to appeal
denied.
Judge Abdus-Salaam took no part.

3 SSD 72
The People &c. ex rel. Shih-Siang Shawn
Liao,
 Appellant,
 v.
Andrew M. Cuomo 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. 2013-1062
In the Matter of Jeremiah M., &c.

Sabrina Ann M., &c.,
 Appellant,
SCO Family of Services,
 Respondent.

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

2 Mo. No. 2013-930
Natural Organics, Inc.,
 Respondent,
 v.
OneBeacon American Insurance Co.,
 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 (see Burke v Crosson,
85 NY2d 10, 18 n 5 [1995]).

2 SSD 71
The People &c. ex rel. Rudy Roa,
 Appellant,
 v.
William Lee, &c.,
 Respondent.

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

3 SSD 73
The People &c. ex rel. Michael Aziz Zarif
Shabazz &c.,
 Appellant,
 v.
Jerome J. Richards, &c., et al.,
 Respondents.

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

4 Mo. No. 2013-897
The People &c.,
 Respondent,
 v.
Bryan Smith,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2013-918
Soho Plaza Corp., et al.,
 Appellants,
 v.
Jason Birnbaum, et al.,
 Defendants,
Utica First Insurance Company,
 Respondents.

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

1 Mo. No. 2013-860
In the Matter of Tenants Committee of 36
Gramercy Park,
 Appellant,
 v.
New York State Division of Housing and
Community Renewal
et al.,
 Respondents.

Motion for leave to appeal, purportedly on behalf of
Tenants Committee of 36 Gramercy Park by Patricia
Pillette, dismissed upon the ground that Patricia
Pillette is not the authorized legal representative of
Tenants Committee of 36 Gramercy Park (see CPLR
321[a]).