

May 13, 2014

CASES

2 No. 73
In the Matter of Allen B.,
 Respondent,
 v.
Christine A. Sproat, &c., et al.,
 Appellants,
Richard D. Northrup,
 Respondent.

Judgment reversed, without costs, petition dismissed,
and certified question not answered as unnecessary.
Opinion by Judge Read.
Judges Graffeo, Smith and Abdus-Salaam concur.
Chief Judge Lippman dissents in an opinion in which
Judges Pigott and Rivera concur.

 No. 28
The People &c.,
 Respondent,
 v.
Nature G. Finch,
 Appellant.

Order, insofar as appealed from, reversed and
information dismissed.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Pigott and Rivera
concur.
Judge Abdus-Salaam dissents in an opinion in which
Judges Graffeo and Read concur, Judge Read in a
separate dissenting opinion.

1 No. 72
The People &c.,
 Respondent,
 v.
Raphael Golb,
 Appellant.

Order modified by vacating the conviction on counts
2, 3, 5, 23, 29, 40, 42, 44, 48 and 51 of the
indictment, dismissing those counts of the
indictment, and remitting the case to Supreme Court,
New York County, for resentencing and, as so
modified, affirmed.
Opinion by Judge Abdus-Salaam.
Judges Graffeo, Read, Smith, Pigott and Rivera
concur.
Chief Judge Lippman dissents in part in an opinion.

No. 143

In the Matter of Mary Veronica Santiago-Monteverde.

Mary Veronica Santiago-Monteverde,
Appellant,
v.
John S. Pereira, &c.,
Respondent.

Certification of a question by the United States Court of Appeals for the Second Circuit, pursuant to section 500.27 of this Court's Rules of Practice, accepted and the issues presented are to be considered after briefing and argument.

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

2 No. 74

In the Matter of Robert T.,
Respondent,
v.

Christine A. Sproat, &c., et al.,
Appellants,
D. Holley Carnright,
Respondent.

Judgment reversed, without costs, petition dismissed, and certified question not answered as unnecessary.

Opinion by Judge Read.

Judges Graffeo, Smith and Abdus-Salaam concur.

Chief Judge Lippman dissents in an opinion in which Judges Pigott and Rivera concur.

1 No. 79

Wendy Webb-Weber,
Appellant,

v.

Community Action for Human Services, Inc.,
et al.,
Respondents,
et al.,
Defendants.

Order, insofar as appealed from, reversed, with costs, and motion by defendants Community Action for Human Services, Inc. and David G. Bond to dismiss the first cause of action as against them denied.

Opinion by Judge Pigott.

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

4 No. 68
Rhonda Williams, &c.,
 Respondent,
 v.
Sharon T. Weatherstone,
 Defendant,
Jordan-Elbridge Central School District,
 Appellant.

Order, insofar as appealed from, reversed, with costs, defendant Jordan-Elbridge Central School District's motion for summary judgment dismissing the complaint and cross claims against it granted, and certified question answered in the negative.
Opinion by Judge Read.
Judges Graffeo, Rivera and Abdus-Salaam concur.
Judge Smith dissents in an opinion in which Chief Judge Lippman and Judge Pigott concur.

MOTIONS

1 Mo. No. 2014-352
In the Matter of Arc on 4th Street Inc.,
 Respondent,
 v.
Tony Quesada,
 Appellant.

Motion for leave to appeal dismissed upon the ground that the Court of Appeals does not have jurisdiction to entertain this motion for leave to appeal from the order of the Appellate Division entered in this proceeding commenced in Civil Court (see NY Const, art VI, § 3[b][7]; CPLR 5602[a]).
Motion for poor person relief dismissed as academic.

1 SSD 31
Benjamin J. Ashmore, Sr.,
 Appellant,
 v.
Wilma Cohen Lewis,
 Respondent.

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

2 Mo. No. 2014-306
Karen Begley, &c., et al.,
 Appellants,
 v.
City of New York, et al.,
 Defendants,
The Forum School, et al.,
 Respondents.

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

1 SSD 33
Building Service Local 32B-J Pension Fund,
et al.,
 Respondents,
 v.
101 Limited Partnership,
 Appellant.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution.

4 Mo. No. 2014-232
In the Matter of Brianna C.
et al.

Joseph W.,
 Appellant,
 v.
Erie County Children's Services,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2014-294
In the Matter of Junior Collins,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

Motion, insofar as it seeks leave to appeal from the September 2013 Appellate Division judgment, dismissed as untimely; motion, insofar as it seeks leave to appeal from the Appellate Division order denying reargument, dismissed upon the ground that such order does not finally determine the proceeding within the meaning of the Constitution.

2 Mo. No. 2014-365
In the Matter of Judith N. Doman, deceased.

Cynthia Schneider, &c.,
 Respondent;
Alexander Doman,
 Appellant;
Alice Green, &c.,
 Respondent.

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

3 SSD 34
In the Matter of Daniel A. Ehring, an
Attorney.

Committee on Professional Standards,
Respondent,

Daniel A. Ehring,
Appellant.

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

4 Mo. No. 2014-342
Cheryl Foley et al.,
Appellants,
v.
West-Herr Ford, Inc., et al.,
Defendants.
Timothy B. Howard, Sheriff, &c.,
Respondent.

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

1 Mo. No. 2014-284
The People &c.,
Respondent,
v.
James Fountain,
Appellant.

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

2 Mo. No. 2014-338
In the Matter of Seth G. (Anonymous).

Administration for Children's Services,
Respondent;
William S. (Anonymous),
Appellant.

Motion for leave to appeal dismissed as untimely.
The prior motion made at the Appellate Division for
leave to appeal was untimely (see Karger, Powers of
the New York Court of Appeals § 12:3 at 436-437
[3d ed rev 2005]).

2 Mo. No. 2014-320
In the Matter of Green 2009, Inc.,
Appellant,
v.
David P. Weiss, &c., et al.,
Respondents.

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

1 Mo. No. 2014-303
Aleksey Guryev,
Respondent,
v.
Gregory Tomchinsky, et al.,
Appellants,
200 Riverside Boulevard at Trump Place, 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. 2014-317
In the Matter of Alton C. Hutchinson,
Appellant,
v.
Brian Fischer, &c.,
Respondent.

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

3 Mo. No. 2014-319
Thomas H. Ivory, et al.,
Appellants,
v.
International Business Machines Corporation,
Respondent.

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

2 Mo. No. 2014-358
The People &c.,
Respondent,
v.
Lemar Jackson,
Appellant.

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

3 Mo. No. 2014-343
In the Matter of Robert Jones,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

On the Court's own motion, appeal dismissed,
without costs, upon the ground that the judgment and
order appealed from do not finally determine the
proceeding within the meaning of the Constitution.
Motion for poor person relief dismissed as academic.

1 Mo. No. 2014-328
The People &c.,
 Respondent,
 v.
Leon Jones,
 Appellant.

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

3 Mo. No. 2014-344
The People &c. ex rel. Robert Jones,
 Appellant,
 v.
Daniel F. Martuscello &c.,
 Respondent.

On the Court's own motion, appeal, insofar as taken
from the November 2013 Appellate Division order,
dismissed, without costs, upon the ground that no
substantial constitutional question is directly
involved; appeal, insofar as taken from the February
2014 Appellate Division order, dismissed, without
costs, upon the ground that such order does not
finally determine the proceeding within the meaning
of the Constitution.
Motion for poor person relief dismissed as academic.

4 Mo. No. 2014-276
In the Matter of Dawn M. Kaminski,
 Appellant,
 v.
Donna Pippen,
 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.
Motion for poor person relief dismissed as academic.

4 Mo. No. 2014-314
In the Matter of Village of Kenmore,
Appellant,
v.
Kenmore Club Police Benevolent
Association,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2014-305
In the Matter of Thomas F. Liotti &c.

Departmental Disciplinary Committee for the
First Judicial Department,
Respondent;
Thomas F. Liotti,
Appellant.

Motion for reargument of motion for leave to appeal
denied.

2 Mo. No. 2014-311
Nella Manko,
Appellant,
v.
Lenox Hill Hospital,
Respondent.

Motion for reconsideration of this Court's February
25, 2014 dismissal order denied.

4 Mo. No. 2014-310
Manuel Martinez,
Appellant,
v.
State of New York,
Respondent.

Motion for leave to appeal dismissed upon the
ground that the orders sought to be appealed from do
not finally determine the action within the meaning
of the Constitution.

2 Mo. No. 2014-312
In the Matter of Elizabeth McGovern,
Appellant,
v.
Mount Pleasant Central School District,
Respondent.

Motion for leave to appeal granted.

3 Mo. No. 2014-395
In the Matter of Yotuhel Montane,
 Appellant,
 v.
Andrea Evans, &c.,
 Respondent.

2 Mo. No. 2014-308
In the Matter of James P. Murphy,
 Appellant,
 v.
City of New York,
 Respondent.

Motion for leave to appeal granted.

On the Court's own motion, appeal, insofar as taken from that part of the Appellate Division order dismissing an appeal from a decision of Supreme Court, dismissed, without costs, upon the ground that no appeal lies from an Appellate Division order dismissing an appeal from a decision (see CPLR 5601; Matter of *Mixon v Clark*, 3 NY3d 688 [2004]); appeal otherwise dismissed without costs, upon the ground that the remainder of the Appellate Division order does not finally determine the proceeding within the meaning of the Constitution.

Motion, insofar as it seeks leave to appeal from that part of the Appellate Division order dismissing an appeal from a decision of Supreme Court, dismissed upon the ground that no motion for leave to appeal lies from an Appellate Division order dismissing an appeal from a decision (see CPLR 5602; Matter of *Mixon v Clark*, 3 NY3d 688 [2004]); motion, insofar as it seeks leave to appeal from the remainder of the Appellate Division order, dismissed upon the ground that such portion of the order does not finally determine the proceeding within the meaning of the Constitution.

3 Mo. No. 2014-346
In the Matter of Prem Nath,
Appellant,
v.
New York State Department of Health,
Respondent.

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

3 Mo. No. 2014-324
In the Matter of Thomas C. O'Brien,
Appellant,
v.
New York State Commissioner of Education
et al.,
Respondents.

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

1 Mo. No. 2014-330
In the Matter of Dr. Andrea Parris,
Appellant,
v.
The New York City Department of Education,
et al.,
Respondents.

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

1 Mo. No. 2014-297
Christopher Peat,
Respondent,
v.
Fordham Hill Owners Corporation,
Appellant,
et al.,
Defendants,
Fordham Hill Leasing Company,
Respondent.
(And Third-Party Actions.)

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

1 Mo. No. 2014-337
Christopher Peat,
 Respondent,
 v.
Fordham Hill Owners Corporation,
 Appellant,
et al.,
 Defendants,
Fordham Hill Leasing Company,
 Respondent.
(And Third-Party Actions.)

Motion by DRI -- The Voice of the Defense Bar for leave to file a brief amicus curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.

1 Mo. No. 2014-340
Christopher Peat,
 Respondent,
 v.
Fordham Hill Owners Corporation,
 Appellant,
et al.,
 Defendants,
Fordham Hill Leasing Company,
 Respondent.
(And Third-Party Actions.)

Motion by The Defense Association of New York, Inc. for leave to file an affirmation amicus curiae on the motion for leave to appeal herein granted and the affirmation is accepted as filed.

1 Mo. No. 2014-353
Christopher Peat,
 Respondent,
 v.
Fordham Hill Owners Corporation,
 Appellant,
et al.,
 Defendants,
Fordham Hill Leasing Company,
 Respondent.
(And Third-Party Actions.)

Motion by Law Reform Alliance of New York, et al. for leave to file a brief amici curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.

Mo. No. 2014-309
In the Matter of Jesse Roberites,
Appellant,
v.
Brian Fischer, &c.,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2014-307
Bryan Schwartz, et al.,
Appellants,
v.
Empire City Subway Company (Limited),
Respondent,
et al.,
Defendants.

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

1 Mo. No. 2014-331
Philip Seldon,
Appellant,
v.
Cheyenne Crow, 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, insofar as it seeks leave to appeal from the Appellate Division order of affirmance, denied.

2 Mo. No. 2014-178
Keishma Smallwood et al.,
Appellants,
v.
Matthew M. Lupoli, et al.,
Respondents.
(And a Third-Party Action.)

Motion, insofar as it seeks leave to appeal against defendants Matthew M. Lupoli, Albert Basal, Fred Basal, Tony Zadeh, Plaza Homes, LLC, Universal Development, LLC, and George J. Brucker, dismissed upon the ground that as to those defendants 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.

2 Mo. No. 2014-389
In the Matter of Jeffrey B. Wagner,
 Appellant,
 v.
Barbara J. Fiala, &c., et al.,
 Respondents.

 SSD 32
In the Matter of Carlton Walker,
 Appellant,
 v.
New York State Commission on Judicial
Conduct, et al.,
 Respondents.

3 Mo. No. 2014-299
In the Matter of Kirk Williams,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

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

Appeal transferred without costs, by the Court sua
sponte, to the Appellate Division, First 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]).

Motion for leave to appeal denied.