

November 24, 2014

CASES

1 No. 182
Lorraine Borden &c., et al.,
 Respondents,
 v.
400 East 55th Street Associates, L.P.,
 Appellant.

Order affirmed, with costs, and certified question answered in the affirmative.
Opinion by Chief Judge Lippman.
Judges Graffeo and Rivera concur.
Judge Read concurs in result for reasons stated in the memorandum at the Appellate Division (105 AD3d 630 [2013]).
Judge Smith dissents in an opinion in which Judge Pigott concurs.
Judge Abdus-Salaam took no part.

1 No. 191
Jandy Coleson, &c., et al.,
 Appellants,
 v.
City of New York, et al.,
 Respondents.

Order modified, without costs, in accordance with the opinion herein, case remitted to the Appellate Division, First Department, for consideration of issues raised but not determined on the appeal to that court and, as so modified, affirmed, and certified question not answered upon the ground that it is unnecessary.
Opinion by Judge Abdus-Salaam.
Chief Judge Lippman and Judges Graffeo and Rivera concur.
Judge Pigott dissents in part in an opinion in which Judges Read and Smith concur.

1 No. 184
Elisa Downing, et al.,
 Respondents,
 v,
First Lenox Terrace Associates, et al.,
 Appellants.

Order affirmed, with costs, and certified question answered in the affirmative.
Opinion by Chief Judge Lippman.
Judges Graffeo and Rivera concur.
Judge Read concurs in result for reasons stated by Justice Richard T. Andrias at the Appellate Division (107 AD3d 86 [2013]).
Judge Smith dissents in an opinion in which Judge Pigott concurs.
Judge Abdus-Salaam took no part.

1 No. 183
Yanella Gudz &c.,
 Respondent,
 v.
Jemrock Realty Company, LLC,
 Appellant.

Order affirmed, with costs, and certified question answered in the affirmative.
Opinion by Chief Judge Lippman.
Judges Graffeo and Rivera concur.
Judge Read concurs in result for reasons stated in the memorandum at the Appellate Division (105 AD3d 625 [2013]).
Judge Smith dissents in an opinion in which Judge Pigott concurs.
Judge Abdus-Salaam took no part.

2 No. 209
The People &c.,
 Respondent,
 v.
Pamela Hanson,
 Appellant.

Order reversed and a new trial ordered.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Read, Pigott and Rivera concur.
Judge Smith concurs in result in an opinion.
Judge Abdus-Salaam took no part.

4 No. 189
The People &c.,
 Appellant,
 v.
Dwight R. DeLee,
 Respondent.

Order modified by granting the People, if they be so advised, leave to resubmit a charge of manslaughter in the first degree as a hate crime to another grand jury and, as so modified, affirmed.
Opinion by Judge Read.
Chief Judge Lippman and Judges Graffeo, Smith, Pigott, Rivera and Abdus-Salaam concur, Judge Abdus-Salaam in a concurring opinion.

2 No. 216

Juan Sierra,
Plaintiff,

v.

4401 Sunset Park, LLC, et al.,
Defendants.

4401 Sunset Park, LLC, et al.,
Third-Party Respondents,

v.

LM Interiors Contracting, LLC,
Third-Party Defendant,

Scottsdale Insurance Company,
Third-Party Appellant.

(And A Second Third-Party Action.)

Judgment appealed from and order of the Appellate Division, insofar as brought up for review, affirmed, with costs.

Opinion by Judge Smith.

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

1 No. 208

The People &c.,
Respondent,

v.

Julian Silva,
Appellant.

Order modified by vacating the conviction of attempted criminal possession of a weapon in the third degree, with leave to the People, if they be so advised, to resubmit a charge of attempted criminal possession of a weapon in the third degree to a new grand jury and, as so modified, affirmed.

Opinion by Judge Graffeo.

Chief Judge Lippman and Judges Read, Pigott and Rivera concur.

Judge Smith dissents in an opinion.

Judge Abdus-Salaam took no part.

1 No. 203
Strauss Painting, Inc.,
 Appellant-Respondent,
 v.
Mt. Hawley Insurance Company,
 Respondent-Appellant,
Metropolitan Opera Association, Inc.,
 Respondent.

Order modified, without costs, by denying
Metropolitan Opera Association Inc.'s motion for
summary judgment on its first cross claim and, as so
modified, affirmed, and certified question answered
in the negative.

Opinion Per Curiam.

Judges Graffeo, Smith, Pigott, Rivera and Abdus-
Salaam concur.

Judge Read dissents in part in an opinion in which
Chief Judge Lippman concurs.

MOTIONS

3 Mo. No. 2014-1018
In the Matter of Jose Almonte,
 Appellant,
 v.
Joseph P. Smith, &c.,
 Respondent.

Motion for leave to appeal dismissed as untimely
(see CPLR 5513[b]).

2 Mo. No. 2014-1022
Archstone, &c., et al.,
 Appellants,
 v.
Tocci Building Corporation of New Jersey,
Inc., et al.,
 Defendants,
Liberty Mutual Insurance Company,
 Respondent.
(And Third-Party Actions.)

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. 2014-963
Rita Cusimano, &c., et al.,
 Respondents,
 v.
Andrew V. Schnurr, CPA, et al.,
 Appellants.
Bernard V. Strianese, et al.,
 Intervenors-Appellants.

Motion for leave to appeal granted.

3 Mo. No. 2014-1019
In the Matter of Echo Westley Dixon,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

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.

1 Mo. No. 2014-997
In the Matter of Roy Den Hollander,
 Appellant,
 v.
The City of New York Commission on
Human Rights,
 Respondent.

Motion to dismiss appeal, treated as a motion for reargument of appellant's motion for leave to appeal, granted and, upon reargument, motion for leave to appeal denied.

4 Mo. No. 2014-1029
In the Matter of Constantine Jackson,
 Appellant,
 v.
Anthony Annucci, &c.,
 Respondent.

Motion for reargument of motion for leave to appeal denied.

3 Mo. No. 2014-1031
In the Matter of Nathaniel Jay,
 Appellant,
 v.
Brian Fischer, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2014-1043
The People &c.,
 Respondent,
 v.
Alvin Johnson,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2014-1034
The People &c. ex rel. Demetrio Lifrieri,
 Appellant,
 v.
William A. Lee,
 Respondent.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2014-1042
In the Matter of Stephen Mitchell,
 Appellant,
 v.
Clerk of Supreme Court of Kings County, et
al.,
 Respondents.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.
Chief Judge Lippman took no part.

 Mo. No. 2014-1032
Khanh T. Nguyen,
 Appellant,
 v.
Nemet Motors,
 Respondent.

Motion for leave to appeal dismissed upon the
ground that the Court of Appeals does not have
jurisdiction to entertain the motion (see NY Const,
art VI, § 3[b]; CPLR 5602).

3 Mo. No. 2014-1030
In the Matter of Ralph Oyague,
 Appellant,
 v.
Sullivan Correctional Facility,
 Respondent.

Motion for reargument of motion for leave to appeal
denied.

 Mo. No. 2014-1036
Kristin Mangilit-Pradlik,
 Plaintiff,
Anthony J. Pradlik,
 Appellant,
 v.
Valvoline Instant Oil Change GE6604-White
Plains 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 a stay dismissed as academic.

1 Mo. No. 2014-804
Red Zone LLC,
 Respondent,
 v.
Cadwalader, Wickersham & Taft LLP,
 Appellant.

Motion for leave to appeal granted.
Judge Graffeo took no part.

2 Mo. No. 2014-1009
Joann Rivera, &c., et al.,
 Plaintiffs,
 v.
Wyckoff Heights Medical Center, et al.,
 Defendants.

Wyckoff Heights Medical Center,
et al.,
 Third-Party Appellants,
 v.
Roger Duvivier, &c., et al.,
 Third-Party Respondents.
(And Another Third-Party Action.)

Motion for leave to appeal denied.

3 Mo. No. 2014-1026
In the Matter of Dora I. Ruano,
 Respondent.
Legal Interpreting Services, Inc.,
 Appellant.
Commissioner of Labor,
 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. 2014-1017
In the Matter of Frank Russell,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

Motion for reargument of motion for leave to appeal denied.

3 Mo. No. 2014-1037
In the Matter of Amara B. Schwartz,
 Appellant,
 v.
State Insurance Fund,
 Respondent.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2014-1039
In the Matter of Michele M. Simms-Parris,
&c., a disbarred attorney.

Grievance Committee for the Ninth Judicial
District,
Respondent;
Michele M. Simms-Parris,
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.