

April 7, 2015

CASES

2 No. 32
The People &c.,
 Respondent,
 v.
Darius Dubarry,
 Appellant.

Order modified by remitting to Supreme Court, Kings County, for further proceedings in accordance with the opinion herein and, as so modified, affirmed. Opinion by Judge Rivera. Chief Judge Lippman and Judges Abdus-Salaam and Stein concur. Judge Pigott dissents in part in an opinion in which Judges Read and Fahey concur.

 No. 50
The People &c.,
 Appellant,
 v.
Rebecca Guthrie,
 Respondent.

Order reversed, defendant's motion to suppress denied and case remitted to Village Court, Village of Newark, for further proceedings in accordance with the opinion herein. Opinion by Judge Stein. Chief Judge Lippman and Judges Read, Pigott, Abdus-Salaam and Fahey concur. Judge Rivera dissents in an opinion.

1 No. 51
In the Matter of Edwin Lopez,
 Respondent,
 v.
Andrea Evans, &c.,
 Appellant.

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

4 No. 52
The People &c.,
 Appellant,
 v.
Kharye Jarvis,
 Respondent.

Order affirmed, in a memorandum. Chief Judge Lippman and Judges Read, Rivera, Abdus-Salaam and Stein concur. Judge Pigott dissents in an opinion. Judge Fahey took no part.

1 No. 102 SSM 8
In the Matter of Anthony J. Russo,
 Respondent,
 v.
New York City Department of Education,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order insofar as appealed from reversed, with costs, New York City Department of Education's cross motion to dismiss the petition granted in its entirety, and certified question answered in the negative. We cannot say that "the penalty of [termination] . . . shocks the judicial conscience" (Matter of Kelly v Safir, 96 NY2d 32, 40 [2001]; see Matter of Pell v Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County, 34 NY2d 222, 234-235 [1974]).

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

4 No. 34
The People &c.,
 Respondent,
 v.
Paul Williams,
 Appellant.

Order reversed and a new trial ordered.

Opinion by Judge Fahey.

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

Judge Abdus-Salaam dissents in an opinion in which Judge Pigott concurs.

MOTIONS

2 Mo. No. 2015-176
In the Matter of State of New York,
Respondent,
v.
Abdul A. (Anonymous),
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2015-235
Maureen Adler,
Appellant,
v.
QPI-VIII, LLC, et al.,
Respondents.

Motion for leave to appeal granted.

2 Mo. No. 2015-167
Rafia Ahmed, &c.,
Appellant,
v.
John Pannone, &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.

3 Mo. No. 2015-195
Taliv Ali,
Appellant,
v.
State of New York,
Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution. 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. 2015-236
The People &c.,
 Respondent,
 v.
Eloy Andrade,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2015-218
In the Matter of County of Chemung,
 Respondent,
 v.
Nirav R. Shah, &c., et al.,
 Appellants.

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

2 Mo. No. 2015-186
The People &c.,
 Respondent,
 v.
Calvin Dallas,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2015-173
John A. Deep,
 Appellant,
 v.
David Boies et al.,
 Respondents,
et al.,
 Defendant.

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

2 Mo. No. 2015-239
The People &c.,
 Respondent,
 v.
Thomas Dixon,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2015-211
The People &c.,
Respondent,
v.
Thomas Frazier,
Appellant.

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

4 Mo. No. 2015-238
In the Matter of John Hogan,
Appellant,
v.
Department of Corrections and Community
Supervision, et al.,
Respondents.

Motion for reargument denied.
Judges Stein and Fahey took no part.

1 Mo. No. 2015-226
The People &c.,
Respondent,
v.
Mohammed Khan,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2015-255
In the Matter of Shahin Khoshnevis,
Appellant,
v.
Property Clerk of New York City Police
Department,
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2015-212
In the Matter of Lazy Acres Park, LLC,
Respondent,
v.
Paul Ferretti, et al.,
Appellants.

Motion for leave to appeal dismissed upon the
ground that this Court 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 Town Court (see NY
Const, art VI, § 3[b][7]; CPLR 5602[a]).
Judge Fahey took no part.

4 Mo. No. 2015-269
In the Matter of Lazy Acres Park, LLC,
 Respondent,
 v.
Paul Ferretti, et al.,
 Appellants.

Motion by the National Consumer Law Center, et al.
for leave to appear amici curiae on the motion for
leave to appeal herein granted and the brief is
accepted as filed.
Judge Fahey took no part.

3 Mo. No. 2015-177
In the Matter of Ryan LL., &c.

Stephen A. Pechenik, &c.,
 Respondent;
Ryan LL.,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2015-175
In the Matter of Bernice Malcolm,
 Appellant,
 v.
New York State Department of Labor, et al.,
 Respondents.

Motion for leave to appeal denied.
Judge Fahey took no part.

1 Mo. No. 2015-256
Yeremia Maroutian,
 Appellant,
 v.
Jacob Fuchs,
 Defendant,
Games and Economic Behavior,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2015-169
The People &c.,
 Respondent,
 v.
William Morgan,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2015-202
In the Matter of Denis Pinot,
 Respondent,
 v.
Straight Line Construction Corporation of
New York,
 Respondent,
Technology Insurance Company,
 Appellant.
Workers' Compensation Board,
 Respondent.

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

1 SSD 9
PS 157 Lofts LLC, et al.,
 Respondents,
 v.
Kimberly Austin, et al.,
 Appellants.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that this Court does not have jurisdiction to entertain the appeal (NY Const, art VI, § 3; CPLR 5601).
Judges Stein and Fahey took no part.

1 Mo. No. 2015-377
PS 157 Lofts LLC, et al.,
 Respondents,
 v.
Kimberly Austin, et al.,
 Appellants.

Motion, insofar as it seeks reargument, denied; motion, insofar as it seeks leave to appeal, dismissed upon the ground that this Court does not have jurisdiction to entertain the motion (NY Const, art VI, § 3; CPLR 5602).
Judges Stein and Fahey took no part.

1 Mo. No. 2015-227
The People &c.,
 Respondent,
 v.
Kenneth Ramsey,
 Appellant.

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

1 Mo. No. 2015-181
The People &c.,
 Respondent,
 v.
Mark Ray,
 Appellant.

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

3 Mo. No. 2015-197
Dennis B. Schlenker,
 Respondent,
 v.
Salvatore Cascino, et al.,
 Appellants.

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

2 Mo. No. 2015-260
Zenica Segerman,
 Appellant,
 v.
Lutheran Medical Center, et al.,
 Respondents.

Motion for reargument of motion for leave to appeal
denied.
Judges Stein and Fahey took no part.

3 Mo. No. 2015-191
In the Matter of County of St. Lawrence,
 Respondent,
 v.
Nirav R. Shah, &c., et al.,
 Appellants.
(And Two Other Related Proceedings.)

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

4 Mo. No. 2015-203
In the Matter of Synergy, LLC et al.,
 Appellants,
 v.
Susan Kibler, &c., et al.,
 Respondents,
Wyoming Central School District,
 Intervenor-Respondent.

Motion, insofar as it seeks leave to appeal from the
Appellate Division order affirming the Supreme
Court judgment, denied; motion, insofar as it seeks
leave to appeal from the other Appellate Division
order, dismissed upon the ground that such order
does not finally determine the proceeding within the
meaning of the Constitution.

4 Mo. No. 2015-351
In the Matter of Synergy, LLC et al.,
Appellants,
v.
Susan Kibler, &c., et al.,
Respondents,
Wyoming Central School District,
Intervenor-Respondent.

Motion by the Commissioner of Agriculture and Markets 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. 2015-180
The People &c.,
Respondent,
v.
Delfino Tamares,
Appellant.

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

2 Mo. No. 2015-243
Vincent Tarantino,
Appellant,
v.
Queens Ballpark Company, LLC,
et al.,
Respondents,
et al.,
Defendant.

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

3 Mo. No. 2015-192
U.W. Marx, Inc.,
Appellant,
v.
Koko Contracting, Inc.,
Respondent.

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

Koko Contracting, Inc.,
Respondent,
v.
U.W. Marx, Inc., et al.,
Appellants,
et al.,
Defendant.

4 Mo. No. 2015-219
Drew M. VeRost et al.,
Respondents,
v.
Mitsubishi Caterpillar Forklift America, Inc.,
et al.,
Defendants,
Nuttall Gear, LLC, 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. 2015-282
The People &c.,
Respondent,
v.
Rahmel Walker,
Appellant.

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

1 Mo. No. 2015-187
In the Matter of Masao Yonamine,
Appellant,
v.
New York City Police Department, et al.,
Respondents.

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

1 Mo. No. 2015-183
In the Matter of George Zouvelos,
Appellant,
v.
The New York State Department of Financial Services,
Respondent.

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