

January 08, 2015

CASE

1 No. 69 SSM 29
In the Matter of 155 West 21st Street, LLC,
 Appellant,
et al.,
 Petitioner,
 v.
Alistair McMullan,
 Respondent,
et al.,
 Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, and respondent's cross motion for sanctions, costs, and attorneys' fees denied. Under these circumstances, the Appellate Division abused its discretion in imposing sanctions for frivolous conduct. Chief Judge Lippman and Judges Read, Pigott, Rivera and Abdus-Salaam concur.

MOTIONS

1 Mo. No. 2014-1157
Aetna Health Plans, &c.,
Appellant,
v.
Hanover Insurance Company,
Respondent.

Motion for leave to appeal granted.

1 Mo. No. 2014-1264
Marta Alvarez,
Appellant,
v.
NYLL Management Ltd., et al.,
Respondents.

Motion by New York State Trial Lawyers' Association for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed.

2 Mo. No. 2014-1134
In the Matter of Paula Andrews,
Respondent,
v.
County of Rockland,
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.

2 Mo. No. 2014-1247
The People &c.,
Respondent,
v.
Oliver Berry, &c.,
Appellant.

Motion for assignment of counsel granted and Lynn W. L. Fahey, Esq., Appellate Advocates, 111 John Street, 9th Floor, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.

3 Mo. No. 2014-1138
In the Matter of William J. Clark,
Appellant,
v.
Brian Fischer, &c.,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2014-1289
The People &c.,
Respondent,
v.
Tyrone Davis,
Appellant.

Motion for assignment of counsel granted and Steven A. Feldman, Esq., c/o Feldman and Feldman, 626 Reckson Plaza, West Tower, 6th Floor, Uniondale, NY 11556 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2014-1126
Kristina Dupps, et al.,
Appellants,
v.
Jessica Betancourt, et al.,
Defendants,
Bank of New York,
Respondent.

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

4 Mo. No. 2014-1142
In the Matter of Shannon F.,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2014-1118
In the Matter of FFT Senior Communities,
Inc.,
Respondent,
v.
Town of Canandaigua, et al.,
Appellants.

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

1 Mo. No. 2014-1165
In the Matter of Rashi-Malik Olatunji G., &c.

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

Quashi G., &c.,
Appellant,
v.
Children's Village,
Respondent.

2 Mo. No. 2014-1119
Andrew J. Homar, et al.,
 Appellants,
 v.
American Home Mortgage Acceptance, Inc.,
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.

1 Mo. No. 2015-3
Hon. Susan Larabee, et al.,
 Appellants,
 v.
The Governor of the State of New York, et al.,
 Respondents.

Motion by Association of Justices of the Supreme Court of the State of New York et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

3 Mo. No. 2014-1146
In the Matter of Salvatore Letizia,
 Appellant,
 v.
Superintendent Graham et al.,
 Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2014-1293
In the Matter of Edwin Lopez,
 Respondent,
 v.
Andrea Evans, &c.,
 Appellant.

Motion by Association of the Bar of the City of New York for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed.

4 Mo. No. 2014-1136
In the Matter of M.L. Caccamise Electric
Corp.,
 Appellant,
 v.
City of Rochester et al.,
 Respondents.

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

4 Mo. No. 2014-1235
Eugene Margerum, et al.,
 Appellants-Respondents,
 v.
City of Buffalo, et al.,
 Respondents-Appellants.

Motion by Pacific Legal Foundation et al. for leave to appear amici curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

1 Mo. No. 2015-26
The People &c.,
 Respondent,
 v.
Edwin Mendez,
 Appellant.

Motion for assignment of counsel granted and Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, NY 10007 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2014-1275
In the Matter of New York City Asbestos
Litigation.

Doris Kay Dummitt, Individually and as
Executrix of the Estate of Ronald Dummitt,
Deceased,
 Respondent,
 v.
A.W. Chesterton, et al.,
 Defendants,
Crane Co.,
 Appellant.

Motion by Pacific Legal Foundation for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

Mo. No. 2014-1162
In the Matter of Emmanuel Patterson,
Appellant,
v.
Michael Graziano, &c., et al.,
Respondents.

On the Court's own motion, appeal transferred, without costs, to the Appellate Division, Fourth 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 poor person relief dismissed as academic.

1 Mo. No. 2014-1276
Sean R., &c.,
Appellant,
v.
BMW of North America, LLC, et al.,
Respondents.

Motion by American Association for Justice for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed.

1 Mo. No. 2014-1273
The People &c.,
Respondent,
v.
Michael Rutledge,
Appellant.

Motion for assignment of counsel granted and Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, NY 10005 assigned as counsel to the appellant on the appeal herein.

4 Mo. No. 2015-2
Joseph Saint et al.,
Appellants,
v.
Syracuse Supply Company,
Respondent.

Motion by Defense Association of New York, Inc. for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

4 Mo. No. 2014-1168
Renee Sciara, et al.,
 Respondents,
 v.
Surgical Associates of Western New York,
P.C., et al.,
 Respondents.
Usha Chopra, M.D.,
 Non-Party Appellant.

Motion by non-party appellant for permission to
withdraw the appeal granted and appeal marked
withdrawn.
Motion for the imposition of sanctions denied.

1 Mo. No. 2014-1125
The People &c.,
 Respondent,
 v.
Nikko Simmons,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2015-32
The People &c.,
 Appellant,
 v.
Victor Soto,
 Respondent.

Motion for assignment of counsel granted and Robert
S. Dean, Esq., Center for Appellate Litigation, 120
Wall Street, 28th Floor, New York, NY 10005
assigned as counsel to the respondent on the appeal
herein.

 Mo. No. 2014-1144
John Stefatos,
 Appellant,
et al.,
 Plaintiff,
 v.
Fred-Doug Manager, LLC, et al.,
 Respondents.

Motion, treated as a motion for reargument of
appellant's previous motion for leave to appeal which
was denied with one hundred dollars costs and
necessary reproduction disbursements, denied.

2 Mo. No. 2014-1257
The People &c.,
 Appellant,
 v.
Tyson Sydoriak,
 Respondent.

Motion for assignment of counsel granted and Lynn W. L. Fahey, Esq., Appellate Advocates, 111 John Street, 9th Floor, New York, NY 10038 assigned as counsel to the respondent on the appeal herein.

4 Mo. No. 2014-1129
Tehan's Catalog Showrooms, Inc.,
 Appellant,
 v.
State of New York,
 Respondent.

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

1 Mo. No. 2015-31
The People &c.,
 Respondent,
 v.
Bobby Wallace,
 Appellant.

Motion for assignment of counsel granted and Seymour James, Jr., Esq., The Legal Aid Society, 199 Water Street, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.

4 Mo. No. 2015-34
In the Matter of Woodside Manor Nursing
Home, et al.,
 Appellants,
 v.
Nirav R. Shah, M.D., &c., et al.,
 Respondents.

Motion by New York State Health Facilities Association for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.