

April 05, 2016

CASES

2 No. 71
The People &c.,
 Respondent,
 v.
Anthony Badalamenti,
 Appellant.

Order affirmed.
Opinion by Judge Fahey.
Chief Judge DiFiore and Judges Pigott and Garcia
concur.
Judge Stein dissents in an opinion in which Judges
Rivera and Abdus-Salaam concur.

1 No. 37
The People &c.,
 Respondent,
 v.
Marcellus Johnson,
 Appellant.

Order affirmed.
Opinion by Judge Rivera.
Chief Judge DiFiore and Judges Pigott, Abdus-
Salaam, Stein, Fahey and Garcia concur, Judge Pigott
in a separate concurring opinion.

2 No. 45
The People &c.,
 Respondent,
 v.
Joel Nelson,
 Appellant.

Order affirmed.
Opinion by Judge Fahey.
Chief Judge DiFiore and Judges Abdus-Salaam and
Stein concur.
Judge Garcia concurs in result in an opinion, in
which Judges Pigott and Rivera concur.

2 No. 47
The People &c.,
 Respondent,
 v.
Reginald Powell,
 Appellant.

Order affirmed.
Opinion by Judge Garcia.
Judges Pigott, Rivera, Abdus-Salaam, Stein and
Fahey concur.
Chief Judge DiFiore took no part.

1 No. 35
Yaniveth R., &c. et al.,
 Appellants,
 v.
LTD Realty Co. et al.,
 Respondents,
et al.,
 Defendants.
(And a Third-Party Action).

Order affirmed, with costs.
Opinion by Judge Pigott.
Chief Judge DiFiore and Judges Rivera, Abdus-Salaam, Stein and Garcia concur.
Judge Fahey dissents in an opinion.

1 No. 41
In the Matter of Grant Springer,
 Appellant,
 v.
Board of Education of the City School District
of the City of New York, et al.,
 Respondents.

Order affirmed, with costs, and certified question not
answered upon the ground that it is unnecessary.
Opinion by Chief Judge DiFiore.
Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey
and Garcia concur.

1 No. 36
The People &c.,
 Appellant,
 v.
Christian Williams,
 Respondent.

Order reversed and case remitted to the Appellate
Division, First Department, for consideration of the
facts and issues raised but not determined on the
appeal to that court.
Opinion by Judge Abdus-Salaam.
Chief Judge DiFiore and Judges Pigott, Stein and
Garcia concur.
Judge Rivera dissents and votes to affirm in an
opinion in which Judge Fahey concurs.

MOTIONS

2 Mo. No. 2016-125
Susan Aranoff,
 Respondent,
 v.
Gerald Aranoff,
 Appellant.

Motion, insofar as it seeks leave to appeal from the June 2015 Appellate Division order, dismissed upon the ground that it does not lie, appellant having previously moved in the Court of Appeals for leave to appeal (26 NY3d 944 [2015]) from the same Appellate Division order from which he currently seeks leave to appeal (see Selinger v Selinger, 90 NY2d 842 [1997]); motion, insofar as it seeks leave to appeal from the July 2015 Appellate Division order, 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 poor person relief dismissed as academic.

3 Mo. No. 2016-154
The People &c.,
 Respondent,
 v.
Francis Auleta,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2016-151
Joseph F. Borrelli,
 Appellant,
 v.
Christina Borrelli,
 Respondent.

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.

4 Mo. No. 2016-147
In the Matter of State of New York,
 Respondent,
 v.
Frank C.,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2016-167
Robert Cass,
 Appellant,
 v.
State of New York,
 Respondent.

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.

4 Mo. No. 2016-131
In the Matter of Elvis Castillo,
 Appellant,
 v.
Anthony Annucci, &c.,
 Respondent.

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

2 Mo. No. 2016-232
Joan Coccia,
 Respondent,
 v.
Thomas F. Liotti,
 Appellant.

Motion for reargument of motion for leave to appeal denied.
Chief Judge DiFiore and Judge Garcia took no part.

2 Mo. No. 2016-126
In the Matter of Candace Jocelyn Curtis,
Deceased.

Heather Curtis,
 Appellant;
Pamela Barrack,
 Respondent.

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

1 Mo. No. 2016-224
The Diversified Group, Inc., et al.,
Appellants,
v.
Marcum & Kliegman LLP, et al.,
Respondents.

Motion to substitute Zaida Rodriguez-Cohen, as personal representative of the estate of Gerald Cohen, as party respondent herein in place of deceased respondent Gerald Cohen granted.

2 Mo. No. 2016-209
Donald Felix,
Respondent,
v.
Law Office of Thomas F. Liotti,
Appellant.

Motion for reargument of motion for leave to appeal denied.
Chief Judge DiFiore and Judge Garcia took no part.

2 Mo. No. 2016-95
In the Matter of Jesse Friedman,
Appellant,
v.
Kathleen M. Rice, &c.,
Respondent.

Motion for leave to appeal granted.

2 Mo. No. 2016-146
In the Matter of Village of Garden City,
Appellant,
v.
Local 1588, Professional Firefighters
Association,
Respondent.

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

1 Mo. No. 2016-106
Jeffrey Gural,
 Appellant,
et al.,
 Plaintiff,
 v.
Fred Drasner,
 Respondent.

Motion for leave to appeal dismissed upon the ground that the Appellate Division order does not finally determine the action within the meaning of the Constitution and that the stipulation does not qualify as a final judgment within the meaning of CPLR 5602(a)(1)(ii) to bring up for review a prior nonfinal Appellate Division order because it was entered into "without prejudice."

2 Mo. No. 2016-208
Mary Jane Hayes,
 Respondent,
 v.
William Ames Hayes,
 Appellant.

Motion for reargument of motion for leave to appeal &c. denied.
Chief Judge DiFiore and Judge Garcia took no part.

1 Mo. No. 2016-172
Rosemarie A. Herman, &c., et al.,
 Respondents,
 v.
Julian Maurice Herman, 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. 2016-187
Marilyn Hopeman,
 Appellant,
 v.
Eric A. Seiff,
 Respondent.

Motion for reargument of motion for leave to appeal denied.
Chief Judge DiFiore and Judge Garcia took no part.

2 Mo. No. 2016-190
Jerry L. Johnson,
 Appellant,
 v.
State of New York,
 Respondent.

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. 2016-134
Kanic Realty Associates, Inc.,
 Appellant,
 v.
Suffolk County Water Authority,
 Respondent.

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. 2016-132
In the Matter of Elizabeth Marie Barnson
Karnazes, a Disbarred Attorney,
 Appellant.

On the Court's own motion, appeal, insofar as taken from the Appellate Division order denying reconsideration, dismissed, without costs, upon the ground that such order does not finally determine the proceeding within the meaning of the Constitution; appeal otherwise dismissed, without costs, upon the ground that no substantial constitutional question is directly involved.

Motion for poor person relief dismissed as academic.

1 Mo. No. 2016-160
Donette Kingston,
 Appellant,
 v.
New York City Police Department,
 Respondent.

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. 2016-119
Dennis Lee, &c.,
 Respondent,
 v.
Chun Ka Luk, &c.,
 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.

2 Mo. No. 2016-193
In the Matter of George Levitan, deceased.

Gary Levitan,
 Appellant;
Sydelle Levitan,
 Respondent.

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

2 Mo. No. 2016-210
Law Offices of Thomas F. Liotti, et al.,
 Appellants,
 v.
Donald Felix, et al.,
 Respondents.

Motion for reargument of motion for leave to appeal denied.
Chief Judge DiFiore and Judge Garcia took no part.

3 Mo. No. 2015-1393
In the Matter of Pamela A. Madeiros,
 Appellant,
 v.
New York State Education Department et al.,
 Respondents.

Motion for leave to appeal granted.

2 Mo. No. 2016-149
Teddy Moore,
 Appellant,
 v.
Frank Guerra,
 Defendant,
City of New York, 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.

1 Mo. No. 2016-161
Natasha, Inc. &c., et al.,
Appellants,
v.
Stanley Shopkorn,
Respondent.

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

1 Mo. No. 2016-145
Chaudry Noor,
Respondent,
v.
The City of New York, 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. 2016-141
PNC Bank, National Association, &c.,
Respondent,
v.
Aaron Klein,
Appellant,
et al.,
Defendants.

Motion for reargument of motion for leave to appeal denied.
Chief Judge DiFiore and Judge Garcia took no part.

4 Mo. No. 2016-175
In the Matter of Rite Aid Corporation,
Appellant,
v.
Stephen Haywood, &c., et al.,
Respondents.
(And Other Proceedings.)

Motion for reargument of motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Chief Judge DiFiore and Judge Garcia took no part.

4 Mo. No. 2016-176
In the Matter of Rite Aid Corporation,
Appellant,
v.
Terie Huseby, &c., et al.,
Respondents.
(And Other Proceedings.)

Motion for reargument of motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Chief Judge DiFiore and Judge Garcia took no part.

2 Mo. No. 2016-139
The People &c.,
Respondent,
v.
Jeffrey Rojas,
Appellant.

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

1 Mo. No. 2016-155
SFR Holdings Ltd., et al.,
Appellants,
v.
John Rice, et al.,
Respondents.

Motion, insofar as it seeks leave to appeal as against respondents John Rice; Joseph Ingrassia; Capstone Capital Management, Inc.; Capstone Cayman Special Purpose Fund, LP; and Capstone Special Purpose Fund, LP, dismissed upon the ground that as to those respondents 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.

Mo. No. 2016-138
The People &c. ex rel. Michael Aziz Zarif
Shabazz &c.,
Appellant,
v.
Jerome J. Richards &c. et al.,
Respondents.

Motion, insofar as it seeks leave to appeal from the February 2012 Appellate Division order, dismissed upon the ground that it does not lie, appellant having previously moved for leave to appeal to this Court (20 NY3d 983 [2012]) from the same Appellate Division order from which leave to appeal is currently sought (see Selinger v Selinger, 90 NY3d 842 [1997]); motion, insofar as it seeks leave to appeal from the portion of the April 2015 Appellate Division order relating to this civil proceeding, dismissed as untimely (see CPLR 5513[b]; 2103[b][2]).

2 Mo. No. 2016-179
Suffolk Anesthesiology Associates, P.C., &c.,
et al.,
Appellants,
et al.,
Plaintiff,
v.
Matthew J. Verdone, D.O.,
Respondent.
(And Another Action.)

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

1 Mo. No. 2016-157
In the Matter of Maxine Todd,
Appellant,
v.
New York City Health and Hospitals
Corporation Office of Legal Affairs, Claims
Division,
Respondent.

Motion for reargument denied.
Chief Judge DiFiore and Judge Garcia took no part.

2 Mo. No. 2016-133
The People &c.,
Respondent,
v.
Martin Vegh,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2016-129
In the Matter of the Estate of Stanley A.
Wagner, Deceased.
Jaan Aarismaa, IV,
Appellant,
John L. Wagner, as Executor of Stanley A.
Wagner, Deceased,
Respondent.

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 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. 2016-207
In the Matter of the Estate of Stanley A.
Wagner, Deceased.

Jaan Aarismaa, IV,
Appellant,
John L. Wagner, as Executor of Stanley A.
Wagner, Deceased,
Respondent.

Motion by appellant for affirmative relief dismissed upon the ground that the Court of Appeals does not have jurisdiction to entertain it (see NY Const, art VI, § 3).

Cross motion by respondent for the imposition of sanctions denied.

4 Mo. No. 2016-130
In the Matter of Jerikkoh W.

Ontario County Department of Social
Services,
Respondent;
Rebecca W.,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2016-123
In the Matter of Nicholas Witkovich,
Appellant,
v.
Zoning Board of Appeals of Town of
Yorktown,
Respondent,
Andrew Sabo,
Respondent.

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

1 Mo. No. 2016-137
Women's Interart Center, Inc.,
Appellant,
v.
New York City Economic Development
Corporation, et al.,
Respondents.
(And Another Action.)

Motion for leave to appeal dismissed as untimely (see CPLR 5513[b]). The prior motion for leave to appeal made at the Appellate Division was untimely. Judges Rivera and Abdus-Salaam took no part.