

November 21, 2019

**CASES**

3                      No. 83  
Town of Delaware,  
Respondent,  
v.  
Ian Leifer, &c.,  
Appellant.

Order affirmed, with costs.  
Opinion by Chief Judge DiFiore.  
Judges Rivera, Stein, Fahey, Garcia, Wilson and  
Feinman concur.

                            No. 81  
Dr. Robert D. Haar, M.D.,  
Appellant,  
v.  
Nationwide Mutual Fire Insurance Company,  
Respondent,  
et al.,  
Defendants.

Following certification of a question by the United  
States Court of Appeals for the Second Circuit and  
acceptance of the question by the Court pursuant to  
section 500.27 of this Court's Rules of Practice, and  
after hearing argument by counsel for the parties and  
consideration of the briefs and the record submitted,  
certified question answered in the negative.  
Opinion by Judge Stein.  
Chief Judge DiFiore and Judges Rivera, Fahey,  
Wilson and Feinman concur.  
Judge Garcia took no part.

1                      No. 116 SSM 18  
Evelyn Laniox,  
Appellant,  
v.  
City of New York,  
Defendant,  
New York City Housing Authority,  
Respondent.

On review of submissions pursuant to section 500.11  
of the Rules, order affirmed, with costs, in a  
memorandum.  
Chief Judge DiFiore and Judges Stein, Garcia and  
Wilson concur.  
Judge Feinman dissents in an opinion in which  
Judges Rivera and Fahey concur.

2                      No. 90  
The People &c. ex rel. Evans D. Prieston, on  
behalf of Kenel Beaubrun,  
Respondent,  
v.  
Nassau County Sheriff's Department,  
Appellant.

Judgment reversed, without costs, writ denied and  
proceeding dismissed.  
Opinion by Judge Feinman.  
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,  
Garcia and Wilson concur.

## MOTIONS

3                    Mo. No. 2019-784  
In the Matter of Linda AA.,  
                  Appellant,  
                  v.  
Robert AA.,  
                  Respondent.

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

2                    SSD 72  
In the Matter of Murat Ates,  
                  Appellant,  
                  v.  
Andrew Crecca, &c., et al.,  
                  Respondents.

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

4                    Mo. No. 2019-869  
In the Matter of Linda Martin Barber,  
                  Appellant,  
                  v.  
BorgWarner, Inc., et al.,  
                  Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.  
Motion for a stay dismissed as academic.

                      SSD 71  
Roxanne Delgado, et al.,  
                  Appellants,  
                  v.  
State of New York et al.,  
                  Respondents.

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, Third 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]).  
Chief Judge DiFiore took no part.

1                    Mo. No. 2019-1019  
In the Matter of Part 60 Put-Back Litigation.  
  
Deutsche Bank National Trust Company, &c.,  
    Respondent,  
    v.  
Morgan Stanley Mortgage Capital Holdings  
LLC, &c., et al.,  
    Appellants.

Motion by Securities Industry and Financial Markets Association for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served, an original and nine copies filed, and the brief submitted in digital format within seven days. Chief Judge DiFiore and Judge Garcia took no part.

4                    Mo. No. 2019-699  
In the Matter of Ramon F.  
  
Monroe County Department of Human  
Services,  
    Respondent;  
Wilson F.,  
    Appellant.

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

2                    Mo. No. 2019-882  
In the Matter of Anna Feldman, &c.  
  
Anna Feldman,  
    Appellant;  
Grievance Committee for the Ninth Judicial  
District,  
    Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2019-1027  
The People &c.,  
    Respondent,  
    v.  
Elijah Foster-Bey,  
    Appellant.

Motion by Office of the Appellate Defender, Inc., 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. Two copies of the brief must be served, nine copies filed, and the brief submitted in digital format within seven days.

1                    Mo. No. 2019-631  
In the Matter of Elijah G. et al., &c.

Motion for leave to appeal denied.

Stephanie S.,  
    Appellant;  
Saint Dominic's Home and Administration for  
Children's Services,  
    Respondent.

3                    Mo. No. 2019-714  
In the Matter of Ian G.,  
    Respondent,  
    v.  
Crystal F.,  
    Appellant.  
(And Another Related Proceeding.)

Motion for leave to appeal denied.

1                    Mo. No. 2019-800  
In the Matter of Nicolas Keith G., &c.  
  
Lutheran Social Services of New York, et al.,  
    Respondents;  
Mark G.,  
    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.  
Motion for poor person relief dismissed as academic.

3                    Mo. No. 2019-1037  
Marsha Hewitt,  
    Appellant,  
    v.  
Palmer Veterinary Clinic, PC,  
    Respondent,  
et al.,  
    Defendant.

Motion by New York State Academy of Trial  
Lawyers for leave to file a brief amicus curiae on the  
appeal herein granted and the proposed brief is  
accepted as filed. Two copies of the brief must be  
served, nine copies filed, and the brief submitted in  
digital format within seven days.

2                    SSD 70  
Nella Manko,  
                    Appellant,  
                    v.  
Bernard H. Broome, &c., et al.,  
                    Respondents,  
et al.,  
                    Defendants.  
(Index No. 20555/10)

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.

3                    Mo. No. 2019-650  
In the Matter of Jack NN., &c.

Motion for leave to appeal denied.

Chenango County Department of Social  
Services,  
                    Respondent;  
Sarah OO.,  
                    Appellant,  
et al.,  
                    Respondent.  
(And Another Proceeding.)

1                    SSD 74  
Donte Price,  
                    Appellant,  
                    v.  
City of New York, et al.,  
                    Respondents.

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

2                    Mo. No. 2019-779  
In the Matter of Dave R.

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

Administration for Children's Services,  
                    Respondent;  
Sheetal R.,  
                    Appellant,  
et al.,  
                    Respondent.  
(And Three Other Proceedings.)

2                    Mo. No. 2019-788  
In the Matter of Dave R.

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

Little Flower Children and Family Services of  
New York,  
    Respondent;  
Sheetal R.,  
    Appellant,  
et al.,  
    Respondent.  
(And Three Other Proceedings.)

                    Mo. No. 2019-955  
Deborah Rosenthal,  
    Respondent,  
v.  
Robert Rosenthal,  
    Appellant.

On the Court's own motion, appeal transferred  
without costs, by the Court sua sponte, to the  
Appellate Division, Second 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 a stay dismissed as academic.

1                    Mo. No. 2019-881  
In the Matter of Richard P. Savitt, &c.

Motion for reargument denied.  
Motion for poor person relief dismissed as academic.  
Motion for a stay dismissed as academic.

Attorney Grievance Committee for the First  
Judicial Department,  
    Respondent;  
Richard P. Savitt,  
    Appellant.

3                    Mo. No. 2019-948  
The People &c.,  
    Respondent,  
v.  
David Shaw,  
    Appellant.

Motion for an extension of the time within which to  
apply for permission to appeal pursuant to CPL  
460.20 granted and motion papers treated as a timely  
CPL 460.20 application.

Mo. No. 2019-974  
The People &c.,  
Respondent,  
v.  
Kenneth Slade,  
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.

3 Mo. No. 2019-765  
The People &c. ex rel. Derrick Thompson,  
Appellant,  
v.  
William Keyser, &c.,  
Respondent.

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

2 SSD 73  
In the Matter of John L. Weslowski,  
Appellant,  
v.  
Edwin J. Day, &c., et al.,  
Respondents.

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

4 Mo. No. 2019-978  
The People &c.,  
Respondent,  
v.  
William A. Wilkins, &c.,  
Appellant.

Motion for assignment of counsel granted and Timothy P. Donaher, Esq., Monroe County Public Defender, 10 N. Fitzhugh Street, Rochester, NY 14614 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2019-979  
The People &c.,  
Respondent,  
v.  
Cadman Williams,  
Appellant.

Motion by The Innocence Project for leave to file a brief amicus curiae on the appeals herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served, an original and nine copies filed, and the brief submitted in digital format within seven days.

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The People &c.,  
Respondent,  
v.  
Elijah Foster-Bey,  
Appellant.

1                    Mo. No. 2019-1028  
The People &c.,  
    Respondent,  
    v.  
Cadman Williams,  
    Appellant.

Motion by Office of the Appellate Defender, Inc., 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. Two copies of the brief must be served, nine copies filed, and the brief submitted in digital format within seven days.

3                    Mo. No. 2019-976  
The People &c. ex rel. Darren Williams,  
    Appellant,  
    v.  
New York State Division of Parole,  
    Respondent.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Motion for ancillary relief dismissed upon the ground that this Court does not have jurisdiction to entertain it (see NY Const, art VI, § 3).

3                    Mo. No. 2019-586  
In the Matter of Renezmae X., &c.  
  
Broome County Department of Social  
Services,  
    Respondent;  
Kimberly X.,  
    Appellant,  
Chad W.,  
    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.

3                    Mo. No. 2019-598  
In the Matter of the Claim of Estate of  
Norman Youngjohn,  
    Appellant,  
    v.  
Berry Plastics Corporation  
et al.,  
    Respondents.  
Workers' Compensation Board,  
    Respondent.

Motion for leave to appeal granted.