

October 24, 2019

CASES

3 No. 68
The People &c.,
 Respondent,
 v.
Michael Cubero,
 Appellant.

Order affirmed, in a memorandum.
Judges Stein, Fahey, Garcia, Wilson and Feinman
concur.
Judge Rivera concurs in result in an opinion.
Chief Judge DiFiore took no part.

1 No. 73
Xiang Fu He,
 Appellant,
 v.
Troon Management, Inc., et al.,
 Respondents.

Order reversed, with costs, and order of Supreme
Court, New York County, reinstated.
Opinion by Judge Rivera.
Chief Judge DiFiore and Judges Stein, Fahey, Garcia,
Wilson and Feinman concur.

1 No. 72
Carol Henry,
 Appellant,
 v.
Hamilton Equities, Inc., et al.,
 Respondents.

Order affirmed, with costs.
Opinion by Judge Stein.
Chief Judge DiFiore and Judges Fahey, Garcia and
Feinman concur.
Judge Rivera dissents in an opinion in which Judge
Wilson concurs.

1 No. 76
The People &c.,
 Respondent,
 v.
Manuel Rodriguez,
 Appellant.

Order affirmed, in a memorandum.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Garcia, Wilson and Feinman concur.

MOTIONS

2 Mo. No. 2019-620
The People &c.,
 Respondent,
 v.
Jorge A. Alvarado,
 Appellant.

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

3 Mo. No. 2019-615
Edstan S. Balgobin,
 Appellant,
 v.
State of New York,
 Respondent.

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

4 Mo. No. 2019-942
The People &c.,
 Respondent,
 v.
Everett D. Balkman,
 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. 2019-592
Barklee 94 LLC,
 Appellant,
 v.
Augustus Oliver et al.,
 Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2019-614
In the Matter of Robert Bond,
 Appellant,
 v.
Tina M. Stanford, &c.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2019-583
The People &c.,
 Respondent,
 v.
Keith Braithwaite,
 Appellant.

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

3 Mo. No. 2019-637
The People &c.,
 Respondent,
 v.
Robert Briscoe,
 Appellant.

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

3 Mo. No. 2019-613
In the Matter of David A. Burr,
 Appellant,
 v.
New York State Department of Corrections
and Community Supervision 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 proceeding within the
meaning of the Constitution.
Motion for poor person relief dismissed as academic.

3 Mo. No. 2019-645
Center for Judicial Accountability, Inc. et al.,
Appellants,
v.
Andrew M. Cuomo &c., et al.,
Respondents.

Motion, on behalf of Center for Judicial Accountability, Inc. by Elena Ruth Sassower, dismissed upon the ground that Sassower is not Center for Judicial Accountability, Inc.'s authorized legal representative (see CPLR 321[a]); motion, by Elena Ruth Sassower on her own behalf, seeking reconsideration of this Court's May 2, 2019 dismissal order, denied; motion, by Elena Ruth Sassower on her own behalf, insofar as it seeks disqualification of Judge Garcia on nonstatutory grounds, dismissed upon the ground that the Court has no authority to entertain it; motion, by Elena Ruth Sassower on her own behalf, seeking disqualification of the Associate Judges of this Court &c. otherwise denied. The application seeking recusal of Judge Garcia on nonstatutory grounds is referred to Judge Garcia for individual consideration and determination. Judge Garcia denies the referred motion for recusal. Chief Judge DiFiore took no part.

3 Mo. No. 2019-646
Center for Judicial Accountability, Inc. et al.,
Appellants,
v.
Andrew M. Cuomo &c., et al.,
Respondents.

Motion, on behalf of Center for Judicial Accountability, Inc. by Elena Ruth Sassower, dismissed upon the ground that Sassower is not Center for Judicial Accountability, Inc.'s authorized legal representative (see CPLR 321[a]); motion, by Elena Ruth Sassower on her own behalf, for leave to appeal from the December 27, 2018 Appellate Division order, denied and, from the remaining Appellate Division orders, dismissed upon the ground that such orders do not finally determine the action within the meaning of the Constitution. Chief Judge DiFiore took no part.

3 Mo. No. 2019-799
Center for Judicial Accountability, Inc. et al.,
Appellants,
v.
Andrew M. Cuomo &c., et al.,
Respondents.

Motion, on behalf of Center for Judicial
Accountability, Inc. by Elena Ruth Sassower,
dismissed upon the ground that Sassower is not
Center for Judicial Accountability, Inc.'s authorized
legal representative (see CPLR 321[a]); motion, by
Elena Ruth Sassower on her own behalf, to strike
respondents' memorandum of law &c. denied.
Chief Judge DiFiore took no part.

3 Mo. No. 2019-571
In the Matter of Dennis M. Creegan,
Appellant,
v.
Thomas P. DiNapoli, &c.,
Respondent.

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

2 Mo. No. 2019-648
The People &c.,
Respondent,
v.
Samuel Cuspert,
Appellant.

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

2 Mo. No. 2019-660
The People &c.,
Respondent,
v.
Enrique Falcon,
Appellant.

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

2 Mo. No. 2019-643
In the Matter of Kareem Fautleroy,
Appellant,
v.
Deborah Dowling,
Respondent.

Motion for leave to appeal dismissed upon the
ground that no appeal lies to this Court from the
decision of an individual Justice of the Appellate
Division.

4 Mo. No. 2019-610
The People &c.,
Respondent,
v.
Steven J. Foerster,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2019-945
The People &c.,
Respondent,
v.
Darryl Hemphill,
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.

2 Mo. No. 2019-635
Glenn C. Kleiber,
Appellant,
v.
Robert P. Fichtel 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 (see Cuadrado v New York City Tr. Auth., lv dismissed 14 NY3d 748 [2010]).

4 Mo. No. 2019-638
In the Matter of Jarrett P.

Ontario County Department of Social
Services,
Respondent;
Jeremy P.,
Appellant.

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

2 Mo. No. 2019-561
P.B. #7, LLC,
Respondent,
v.
231 Fourth Avenue Lyceum, LLC, et al.,
Defendants,
Eric Richmond,
Appellant.
(App. Div. Nos. 2013-02106, 2013-02107,
2013-02108)

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. 2019-562
P.B. #7, LLC,
Respondent,
v.
231 Fourth Avenue Lyceum, LLC, et al.,
Defendants,
Eric Richmond,
Appellant.
(App. Div. No. 2015-06192)

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. 2019-640
The People &c.,
Respondent,
v.
Francisco Sostenes,
Appellant.

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

2 Mo. No. 2019-633
Chad Turgeon,
Appellant,
v.
Vassar College et al.,
Respondents.

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

2 Mo. No. 2019-597

Veronica Udeogalanya,
Appellant,

v.

Kim Kiho, et al.,
Respondents.

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

1 Mo. No. 2019-568

Unclaimed Property Recovery Service, Inc. et
al.,

Appellants,

v.

Credit Suisse First Boston Corporation et al.,
Respondents.

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

Judges Garcia and Wilson took no part.

2 Mo. No. 2019-656

Christina Villavicencio,
Appellant,

v.

Erie Insurance Company,
Respondent.

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

1 Mo. No. 2019-658

Wilmington Savings Fund Society, FSB, &c.,
Respondent,

v.

Sharay Hayes,
Appellant,
et al.,
Defendants.

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