

State of New York
Court of Appeals

Decisions

December 15, 2020

CASES

4 No. 98 SSM 15
The People &c.,
 Respondent,
 v.
Trevis D. Baker,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, Fourth Department, for further proceedings in accordance with the memorandum herein.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Wilson and Feinman concur.
Judge Garcia concurs in result in an opinion.

4 No. 103 SSM 21
The People &c.,
 Respondent,
 v.
Joshua D. Biaselli,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, Fourth Department, for further proceedings in accordance with the memorandum herein.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Wilson and Feinman concur.
Judge Garcia concurs in result in an opinion.

2 No. 97 SSM 14
The People &c.,
 Respondent,
 v.
Jose L. Bisonso,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, Second Department, for further proceedings in accordance with the memorandum herein.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Wilson and Feinman concur.
Judge Garcia concurs in result in an opinion.

2 No. 106 SSM 18
The People &c.,
 Respondent,
 v.
Todd Daniels,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, Second Department, for further proceedings in accordance with the memorandum herein.

Chief Judge DiFiore and Judges Rivera, Fahey, Wilson and Feinman concur.

Judge Garcia dissents and votes to affirm in an opinion, in which Judge Stein concurs in part in a separate dissenting opinion.

 No. 109
Danny Donohue, &c., et al.,
 Appellants,
 v.
Andrew M. Cuomo, &c., et al.,
 Respondents,
State of New York, et al.,
 Defendants.

Certification of questions by the United States Court of Appeals for the Second Circuit, pursuant to section 500.27 of this Court's Rules of Practice, accepted and the issues presented are to be considered after briefing and argument.

Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Chief Judge DiFiore took no part.

2 No. 101 SSM 19
The People &c.,
 Respondent,
 v.
Zestra Hardin,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, Second Department, for further proceedings in accordance with the memorandum herein.

Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Wilson and Feinman concur.

Judge Garcia concurs in result in an opinion.

4 No. 99 SSM 16
The People &c.,
 Respondent,
 v.
Jeffrey R. Magee,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, Fourth Department, for further proceedings in accordance with the memorandum herein.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Wilson and Feinman concur.
Judge Garcia concurs in result in an opinion.

4 No. 100 SSM 17
The People &c.,
 Respondent,
 v.
Joshua L. Miller,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, Fourth Department, for further proceedings in accordance with the memorandum herein.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Wilson and Feinman concur.
Judge Garcia concurs in result in an opinion.

2 No. 102 SSM 20
The People &c.,
 Respondent,
 v.
Nolis Ogando,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, Second Department, for further proceedings in accordance with the memorandum herein.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Wilson and Feinman concur.
Judge Garcia concurs in result in an opinion.

2 No. 105 SSM 28
The People &c.,
 Respondent,
 v.
Lance Rodriguez,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, Second Department, for further proceedings in accordance with the memorandum herein.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Wilson and Feinman concur.
Judge Garcia concurs in result in an opinion.

2 No. 104 SSM 22
The People &c.,
 Respondent,
 v.
Isaias Torres,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, Second Department, for further proceedings in accordance with the memorandum herein.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Wilson and Feinman concur.
Judge Garcia concurs in result in an opinion.

MOTIONS

3 Mo. No. 2020-747
In the Matter of Bonnie AA.,
 Respondent,
 v.
Kiya DD. et al.,
 Respondents,
Reggie BB.,
 Appellant.
(And Two Other Related Proceedings.)

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that affirmed so much of the Family Court order as dismissed appellant's petition to enforce a prior Family Court order, dismissed upon the ground that such portion of the order does not finally determine the proceedings within the meaning of the Constitution; motion for leave to appeal otherwise denied.

2 SSD 71
In the Matter of State of New York,
 Respondent,
 v.
Marcello A.,
 Appellant.

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

2 Mo. No. 2020-878
The People &c.,
 Respondent,
 v.
Jeffery Bush,
 Appellant.

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

1 Mo. No. 2020-707
In the Matter of William C.,
 Appellant,
 v.
Chynna C.,
 Respondent.

Motion for leave to appeal denied.

1 SSD 66
Collateral Loanbrokers Association of New
York, Inc., et al.,
 Appellants,
 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. Judge Feinman took no part.

2 Mo. No. 2020-864
Ditech Financial, LLC, &c.,
 Appellant,
 v.
Santhana Kumar Nataraja Naidu,
 Respondent,
et al.,
 Defendants.

Motion by New York State Foreclosure Defense Bar 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.

2 Mo. No. 2020-894
Ditech Financial, LLC, &c.,
 Appellant,
 v.
Santhana Kumar Nataraja Naidu,
 Respondent,
et al.,
 Defendants.

Motion by United Jewish Organizations of Williamsburg, Inc. 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.

2 Mo. No. 2020-895
Ditech Financial, LLC, &c.,
 Appellant,
 v.
Santhana Kumar Nataraja Naidu,
 Respondent,
et al.,
 Defendants.

Motion by Adam Plotch 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.

1 Mo. No. 2020-886
The People &c.,
 Respondent,
 v.
Drury Duval,
 Appellant.

Motion by New York State Association of Criminal Defense 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, an original and nine copies filed, and the brief submitted in digital format within seven days.

2 Mo. No. 2020-862
Freedom Mortgage Corporation,
 Appellant,
 v.
Herschel Engel,
 Respondent,
et al.,
 Defendants.

Motion by New York Mortgage Bankers Association 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. The brief must be submitted in digital format within seven days.

2 Mo. No. 2020-863
Freedom Mortgage Corporation,
 Appellant,
 v.
Herschel Engel,
 Respondent,
et al.,
 Defendants.

Motion by New York State Foreclosure Defense Bar 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.

2 Mo. No. 2020-883
Freedom Mortgage Corporation,
 Appellant,
 v.
Herschel Engel,
 Respondent,
et al.,
 Defendants.

Motion by USFN - America's Mortgage Banking Attorneys for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. The brief must be submitted in digital format within seven days.

2 Mo. No. 2020-896
Freedom Mortgage Corporation,
 Appellant,
 v.
Herschel Engel,
 Respondent,
et al.,
 Defendants.

Motion by United Jewish Organizations of Williamsburg, Inc. 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.

2 Mo. No. 2020-714
In the Matter of Albert James G., Jr.

Coalition for Hispanic Family Services,
 Respondent;
Shanteek A.C.,
 Appellant,
et al.,
 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.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2020-818
Stacy Greene, &c., et al.,
 Appellants,
 v.
Esplanade Venture Partnership, et al.,
 Respondents,
et al.,
 Defendant.

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. One copy of the brief must be filed and the brief submitted in digital format within seven days.

1 Mo. No. 2020-806
In the Matter of Annalisa G. et al., &c.

Tamara A.H.,
 Appellant;
Saint Dominic's Family Services,
 Respondent.

Motion for leave to appeal denied.
Motion for a stay dismissed as academic.
Judge Feinman took no part.

2 SSD 65
Ignis Development, Inc.,
Appellant,
v.
Long Island College Hospital, et al.,
Respondents.

Long Island College Hospital,
Third-Party Respondent,
v.
Stanly NY Enterprises, Inc., et al.,
Third-Party Appellants.

4 Mo. No. 2020-733
In the Matter of Beth A. Johnson,
Respondent,
v.
John A. Johnson,
Appellant.

4 Mo. No. 2020-755
In the Matter of Aimee Kerr,
Appellant,
v.
Dennis Kerr,
Respondent.

2 SSD 67
In the Matter of State of New York,
Respondent,
v.
Kerry K.,
Appellant.

2 Mo. No. 2020-722
In the Matter of Tausif Khan,
Appellant,
v.
Preeti Potdar,
Respondent.

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.

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

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

Appeal dismissed without costs, by the Court *sua sponte*, 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 denied.

4 Mo. No. 2020-732
In the Matter of Daniel J. Lindsey,
 Appellant,
 v.
Alison M. Lindsey,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2020-633
In the Matter of Jazmine M.

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

Onondaga County Department of Children
and Family Services,
 Respondent;
Willie R.,
 Appellant.

4 Mo. No. 2020-653
In the Matter of the Application for Discharge
of Steven M., &c.,
 Appellant,
 v.
State of New York, et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2020-579
In the Matter of David Ramirez Alvarado
Nahum,
 Appellant,
 v.
New York State Department of Motor
Vehicles, et al.,
 Respondents.

On the Court's own motion, appeal dismissed,
without costs, upon the ground that no substantial
constitutional question is directly involved.
Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2020-677
In the Matter of David Ramirez Alvarado
Nahum,
 Appellant,
 v.
New York State Department of Motor
Vehicles, et al.,
 Respondents.

Motion by Patricia Weiss, Esq. for leave to appear
amicus curiae on the appeal herein granted and the
brief is accepted as filed.

2 SSD 64
In the Matter of New Brunswick Theological
Seminary,
 Respondent,
 v.
Victoria Anne Van Dyke,
 Appellant.

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

3 Mo. No. 2020-851
Protect the Adirondacks! Inc.,
 Respondent-Appellant,
 v.
New York State Department of
Environmental Conservation et al.,
 Appellants-Respondents.

Motion by Sierra Club 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.

4 SSD 70
Alexandra R., &c., et al.,
 Appellants,
 v.
Eric J. Krone,
 Respondent,
et al.,
 Defendants.
(And Three Other Actions.)

Appeals dismissed without costs, by the Court *sua
sponte*, upon the ground that the two-Justice dissent
at the Appellate Division is not on a question of law
(*see* CPLR 5601 [a]).

1 Mo. No. 2020-727
In the Matter of Ubaldo Romero,
Appellant,
v.
Karen F. Agnifilo, &c., et al.,
Respondents.

The People &c. ex rel. Ubaldo Romero,
Appellant,
v.
Robert Morgenthau, &c.,
Respondent.

3 SSD 63
Stephen Phillip Romine,
Appellant,
v.
James P. Laurito et al.,
Respondents.

4 SSD 62
Josiah Schutt,
Respondent,
v.
Mark D. Bookhagen et al.,
Appellants.

1 Mo. No. 2020-855
The People &c.,
Respondent,
v.
Quaniece S. Taylor,
Appellant.

Motion for reargument of motion for leave to appeal denied.

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.

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.

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

1 Mo. No. 2020-865
Juan Vargas,
 Respondent,
 v.
Deutsche Bank National Trust Company,
 Appellant.

Motion by New York State Foreclosure Defense Bar 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.

1 Mo. No. 2020-889
Juan Vargas,
 Respondent,
 v.
Deutsche Bank National Trust Company,
 Appellant.

Motion by United Jewish Organizations of Williamsburg, Inc. 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.

1 Mo. No. 2020-890
Juan Vargas,
 Respondent,
 v.
Deutsche Bank National Trust Company,
 Appellant.

Motion by Adam Plotch 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.

1 Mo. No. 2020-505
In the Matter of Leilia O.W. et al., &c.

Khalifah A.K.,
 Appellant,
et al.,
 Respondent;
Administration for Children's Services,
 Respondent.

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

1 Mo. No. 2020-877
Wells Fargo Bank, N.A., &c.,
 Appellant,
 v.
Donna Ferrato,
 Respondent,
The Simon & Mills Building Condominium
Board, et al.,
 Defendants.

Wells Fargo Bank, N.A., &c.,
 Appellant,
 v.
Donna Ferrato,
 Respondent,
Capital One Bank (USA) N.A., et al.,
 Defendants.

Motion by New York State Foreclosure Defense Bar 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.