

State of New York
Court of Appeals

Decisions

February 18, 2021

CASES

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

Order reversed, with costs, and orders of Supreme Court, Queens County, reinstated.
Opinion by Chief Judge DiFiore.
Judges Stein, Fahey, Garcia, Wilson and Feinman concur, Judge Wilson in a concurring opinion.
Judge Rivera dissents and votes to affirm in an opinion.
[Amended by May 27, 2021 order: Order reversed, with costs, and case remitted to the Appellate Division, Second Department for consideration of issues raised but not determined on the appeal to that court.]

2 No. 1
Freedom Mortgage Corporation,
 Appellant,
 v.
Herschel Engel,
 Respondent,
et al.,
 Defendants.

Order reversed, with costs, and order of Supreme Court, Orange County, reinstated.
Opinion by Chief Judge DiFiore.
Judges Stein, Fahey, Garcia, Wilson and Feinman concur, Judge Wilson in a concurring opinion.
Judge Rivera dissents and votes to affirm in an opinion.
[Amended by May 27, 2021 order: Order reversed, with costs, and case remitted to the Appellate Division, Second Department for consideration of issues raised but not determined on the appeal to that court.]

2 No. 9
The People &c.,
 Appellant,
 v.
Tyrone D. Gordon,
 Respondent.

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

2 No. 6
Stacy Greene, &c., et al.,
 Appellants,
 v.
Esplanade Venture Partnership, et al.,
 Respondents,
et al.,
 Defendant.

Order reversed, with costs, plaintiffs' motion to serve and file a second amended complaint granted in its entirety and certified question answered in the negative.
Opinion by Judge Fahey.
Chief Judge DiFiore and Judges Stein and Feinman concur.
Judge Rivera concurs in result in an opinion in which Judge Wilson concurs.
Judge Garcia concurs in result in a separate concurring opinion.

3 No. 5
In the Matter of Wenceslao Juarez, et al.,
 Respondents,
 v.
New York State Office of Victim Services, et al.,
 Appellants.

Order reversed, without costs, and judgment of Supreme Court, Albany County, reinstated.
Opinion by Judge Stein.
Chief Judge DiFiore and Judges Garcia and Feinman concur.
Judge Wilson concurs in result in an opinion.
Judge Rivera dissents and votes to affirm in an opinion in which Judge Fahey concurs.

1 No. 3
Juan Vargas,
 Respondent,
 v.
Deutsche Bank National Trust Company,
 Appellant.

Order reversed, with costs, defendant's motion to dismiss the complaint granted and plaintiff's cross motion for summary judgment denied.
Opinion by Chief Judge DiFiore.
Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur, Judge Rivera in a concurring opinion and Judge Wilson in a separate concurring opinion.

1 No. 4
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.

Order reversed, with costs, defendant Ferrato's motion to dismiss denied, plaintiff's motion to revoke acceleration of the mortgage loan granted and certified question not answered as unnecessary. Opinion by Chief Judge DiFiore. Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur, Judge Rivera in a concurring opinion and Judge Wilson in a separate concurring opinion.

MOTIONS

1 Mo. No. 2020-792
B and H Florida Notes LLC,
 Respondent,
 v.
Alexander Ashkenazi, et al.,
 Defendants,
Amit Louzon,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2020-807
Batavia Townhouses, Ltd., et al.,
 Respondents,
 v.
Council of Churches Housing Development
Fund Company, Inc.,
 Appellant.

Motion for leave to appeal granted.

1 Mo. No. 2020-847
In the Matter of The Board of Managers of
the Liberty View Condominium,
 Appellant,
 v.
New York City Department of Finance,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2020-828
In the Matter of Raeydan D.E.C. et al., &c.

Kevin C.,
 Appellant;
St. Dominic's Family Services, et al.,
 Respondents,
et al.,
 Respondent.

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as affirmed the July 2019 Family Court order, dismissed upon the ground that such portion of the order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.

1 Mo. No. 2020-884
China Privatization Fund (Del.), L.P.,
Appellant,
v.
Galaxy Entertainment Group Limited,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2020-812
The People &c.,
Respondent,
v.
Carl Ciccarello,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2020-881
CNH Diversified Opportunities Master
Account, L.P., et al.,
Appellants,
v.
Cleveland Unlimited, Inc., et al.,
Respondents.

Motion for reargument denied.

4 Mo. No. 2020-946
In the Matter of Cornell University,
Appellant,
v.
Board of Assessment Review et al.,
Respondents.

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as resolved the 2016 proceeding, denied; motion for leave to appeal otherwise dismissed upon the ground that the order sought to be appealed from does not finally determine the remaining proceedings within the meaning of the Constitution.

1 Mo. No. 2020-796
Doris Dees, &c.,
Respondent,
v.
MTA New York City Transit, &c. et al.,
Appellants.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Judge Feinman took no part.

Mo. No. 2020-859
The People &c.,
Respondent,
v.
Neftali Thomas Diaz,
Appellant.

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain the motion from the order of the Appellate Term (*see* CPLR 5602 [a] [1]).

4 Mo. No. 2020-690
The People &c.,
Respondent,
v.
Kevin A. Dukes,
Appellant.

Motion for leave to appeal granted.

1 Mo. No. 2020-858
In the Matter of Empire Center for Public Policy,
Appellant,
v.
New York City Office of Payroll Administration,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2020-868
Eurotech Construction Corp.,
Appellant,
v.
QBE Insurance Corp.,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2020-797
Tzvi H. Goldstein,
Appellant,
v.
Muhammad S. Khurshid,
Respondent.

Motion for leave to appeal dismissed upon the ground that the orders sought to be appealed from do not finally determine the action within the meaning of the Constitution.

3 Mo. No. 2020-656
In the Matter of the Claim of Kanye Khalid
Green,
Respondent,
v.
Dutchess County BOCES et al.,
Appellants.
Workers' Compensation Board,
Appellant.

Motions 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 and is not an order of the type provided for in CPLR 5602 (a) (2).

2 Mo. No. 2020-908
The People &c.,
Respondent,
v.
Kevin Gualpa-Lema,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2020-871
Edward Guariglia et al.,
Appellants,
v.
Fillor Caushaj, &c.,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2020-770
In the Matter of Skylar P.J.

Suffolk County Department of Social
Services,
Respondent;
Kerry M.T.,
Appellant.
(And Another Proceeding.)

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

3 Mo. No. 2020-902
In the Matter of Johnathan Johnson,
Appellant,
v.
Paul Woodruff, &c., et al.,
Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2020-901
In the Matter of Ljubisa Jovasevic,
Appellant,
v.
Mount Vernon City School District,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2020-784
In the Matter of Rylee K.

Suffolk County Department of Social
Services,
Respondent;
Robert K.,
Appellant,
et al.,
Respondent.

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

2 Mo. No. 2020-834
Maryann Longhi, &c.,
Appellant,
v.
Harvey Lewit, &c., et al.,
Respondents,
et al.,
Defendants.

Motion for leave to appeal denied.

1 Mo. No. 2020-850
The People &c.,
Respondent,
v.
Yuli Malena,
Appellant.

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

2 Mo. No. 2020-836
Nella Manko,
Appellant,
v.
Lenox Hill Hospital,
Respondent.

Motion for reconsideration of this Court's October
15, 2020 dismissal order denied.
Motion for poor person relief dismissed as academic.
Chief Judge DiFiore took no part.

2 Mo. No. 2020-837
Nella Manko,
Appellant,
v.
Lenox Hill Hospital,
Respondent.

Motion for reconsideration of this Court's October 15, 2020 dismissal order denied.
Motion for poor person relief dismissed as academic.
Chief Judge DiFiore took no part.

1 Mo. No. 2020-885
In the Matter of Nella Manko,
Appellant,
v.
William F. Mastro, &c., et al.,
Respondents.

Motion for reconsideration of this Court's October 15, 2020 dismissal order denied.
Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.
Chief Judge DiFiore took no part.

2 Mo. No. 2020-897
Paul Martelloni,
Appellant,
v.
Lisa Martelloni,
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. 2020-914
In the Matter of Patrick N. McCaul,
Appellant,
v.
New York State Department of Motor Vehicles,
Respondent.

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

2 Mo. No. 2020-905
The People &c.,
Respondent,
v.
Herbert McQueen,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2020-928
Seth Mitchell,
 Appellant,
 v.
Cigna Corporation, et al.,
 Respondents.

On the Court's own motion, appeal dismissed,
without costs, upon the ground that it does not lie.
Motion for leave to appeal &c. dismissed upon the
ground that it does not lie.

2 Mo. No. 2020-767
Maxine Moss, &c.,
 Appellant,
 v.
Gurfein Douglas, LLP,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2020-827
Ocwen Loan Servicing, LLC,
 Respondent,
 v.
Ruhina B. Ali,
 Appellant,
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.

2 Mo. No. 2020-898
Usman Oyibo,
 Appellant,
 v.
Huntington Hospital Medical Center, 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.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2020-872
The People &c.,
 Respondent,
 v.
James Pace,
 Appellant.

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

2 Mo. No. 2020-841
The People &c.,
Respondent,
v.
Chang Soo Park,
Appellant.

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

1 Mo. No. 2020-854
Pensmore Investments, LLC,
Respondent,
v.
Gruppo, Levey & Co., et al.,
Defendants,
The Jane Michael 1999 Trust, et al.,
Respondents,
Claire Gruppo,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2020-904
Gheorghe Petre,
Appellant,
v.
Joseph Lucia 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.

2 Mo. No. 2020-846
The People &c.,
Respondent,
v.
Howard Powell,
Appellant.

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

2 Mo. No. 2020-873
The People &c.,
Respondent,
v.
Paul Rause,
Appellant.

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

2 Mo. No. 2020-745
Juvenal Reis,
Appellant,
v.
J.B. Kaufman Realty Co., LLC, et al.,
Respondents.

Motion for leave to appeal granted.

2 Mo. No. 2020-856
Bhupendra K. Shah,
Appellant,
v.
State of New York,
Respondent.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2020-819
SNC Properties, LLC,
Respondent,
v.
Frank DeMartino, 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.

4 Mo. No. 2020-918
Richard Steates,
Appellant,
v.
Judy A. Johnson,
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. 2020-832
The People &c. ex rel. Pamela Roth, on
behalf of Roy Taylor,
Appellant,
v.
Cynthia Brann, &c.,
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.

2 Mo. No. 2020-876
The People &c.,
Respondent,
v.
Keith Todd,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2020-810
The People &c.,
Respondent,
v.
Paul Valentine,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2020-867
The People &c.,
Respondent,
v.
Pasquale Verrilli,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2020-929
Erin P. Vestal,
Appellant,
v.
Michael C. Pontillo, et al.,
Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Judge Fahey took no part.

2 Mo. No. 2020-822
Tarsha M. Williams, &c.,
Appellant,
et al.,
Plaintiff,
v.
Maria Georgopoulos, et al.,
Respondents,
et al.,
Defendants.

Motion for leave to appeal denied.
Motion for additional relief granted only to the extent of sealing the motion submissions to this Court and motion otherwise denied.

4 Mo. No. 2020-944
Glasco Wright,
 Appellant,
 v.
State of New York,
 Respondent.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2020-766
The People &c.,
 Respondent,
 v.
David Young,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2020-949
In the Matter of Jeremy Zielinski,
 Appellant,
 v.
Donald Venettozzi, &c.,
 Respondent.

Motion for reargument or, in the alternative, for amendment of the remittitur denied.
Motion for poor person relief dismissed as academic.

4 Mo. No. 2020-870
Paul Zimmer,
 Appellant,
 v.
James K. Zimmer, &c.,
 Respondent.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that affirmed the denial of plaintiff's cross motion for disqualification of defendant's counsel, dismissed upon the ground that such portion of the order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.