

State of New York
Court of Appeals

Decisions

June 15, 2023

CASES

2 No. 72 SSM 3

The People &c.,
 Respondent,

v.

Herman Anthony,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, without costs, in a memorandum.

Judges Garcia, Singas, Cannataro, Troutman and Halligan concur.

Judge Rivera dissents in an opinion, in which Chief Judge Wilson concurs.

1 No. 51

IKB International, S.A., &c., et al.,
 Respondents,

v.

Wells Fargo Bank, N.A., &c., et al.,
 Appellants,

ABFC 2006-OPT1 Trust, et al.,
 Nominal Defendants.

(And Three Other Actions.)

Order insofar as appealed from modified, without costs, in accordance with the opinion herein, as so modified, affirmed, and certified question answered in the negative.

Opinion by Judge Garcia.

Judges Rivera, Singas and Cannataro concur.

Chief Judge Wilson dissents in part in an opinion.

Judge Troutman dissents in part in a separate opinion.

Judge Halligan took no part.

3 No. 47

The People &c. ex rel. Danny Rivera,
 Appellant,

v.

Superintendent, Woodbourne Correctional
Facility, et al.,

 Respondents.

Order insofar as appealed from affirmed, without costs.

Opinion by Judge Singas.

Judges Garcia, Cannataro and Troutman concur.

Judge Rivera dissents in an opinion, in which Chief Judge Wilson concurs.

Judge Halligan dissents in a separate opinion.

4 No. 46
The People &c. ex rel. E.S.,
 Respondent,
 v.
Superintendent, Livingston Correctional
Facility et al.,
 Appellants.

Order insofar as appealed from reversed, without costs, proceeding converted to a declaratory judgment action and judgment granted in accordance with the opinion herein.
Opinion by Judge Halligan.
Chief Judge Wilson and Judges Rivera, Garcia, Singas, Cannataro and Troutman concur.

4 No. 50
The People &c.,
 Respondent,
 v.
Christopher J. Weber,
 Appellant.

Order appealed from and Appellate Division order brought up for review affirmed, without costs.
Opinion by Judge Halligan.
Judges Rivera, Garcia, Singas and Cannataro concur.
Chief Judge Wilson dissents in an opinion.
Judge Troutman took no part.

2 No. 49
The People &c.,
 Respondent,
 v.
Michael Worley,
 Appellant.

Order reversed, without costs, and matter remitted to Supreme Court, Kings County, for further proceedings in accordance with the opinion herein.
Opinion by Judge Rivera.
Chief Judge Wilson and Judges Troutman and Halligan concur.
Judge Garcia concurs in an opinion, in which Judges Singas and Cannataro concur.

MOTIONS

1 Mo. No. 2023-229
In the Matter of 865 First LLC,
 Appellant,
 v.
New York State Division of Housing and
Community Renewal et al.,
 Respondents.

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

1 Mo. No. 2023-231
In the Matter of Kathryn Arntzen et al.,
 Appellants,
Steven Thaler et al.,
 Appellants,
 v.
City of New York,
 Respondent.

Motion by Steven Thaler et al. for reargument of motion for leave to appeal denied.
Judge Halligan took no part.

2 Mo. No. 2023-256
The People &c.,
 Respondent,
 v.
Jeriah Bamugo,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2023-291
The People &c.,
 Respondent,
 v.
Adam Burgio,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2023-212
Hector Castillo,
Appellant,
v.
West End Towers LLC, et al.,
Respondents.
(And a Third-Party Action.)

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

3 Mo. No. 2023-190
In the Matter of Colonie Center, &c.,
Appellant,
v.
Town of Colonie et al.,
Respondents.
(And Two Other Related Proceedings.)

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

4 Mo. No. 2023-208
The People &c.,
Respondent,
v.
Robert Cornwell,
Appellant.

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

2 Mo. No. 2023-244
Deutsche Bank National Trust Company, &c.,
Appellant,
v.
Jorge Velazquez, et al.,
Defendants,
Point Holding Alpha, LLC,
Nonparty-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. 2023-124
Valentino Dixon,
Appellant,
v.
State of New York,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2023-196
Nigel John Eccles, et al.,
Appellants,
v.
Shamrock Capital Advisors, LLC, et al.,
Respondents.

Motion for leave to appeal granted.
Judges Garcia and Halligan took no part.

1 Mo. No. 2023-263
Nigel John Eccles, et al.,
Appellants,
v.
Shamrock Capital Advisors, LLC, et al.,
Respondents.

Motion by Business Council of New York State, Inc.
for leave to appear amicus curiae on the motion for
leave to appeal herein granted and the proposed brief
is accepted as filed.
Judges Garcia and Halligan took no part.

1 Mo. No. 2023-265
Nigel John Eccles, et al.,
Appellants,
v.
Shamrock Capital Advisors, LLC, et al.,
Respondents.

Motion by Patrick M. Connors for leave to appear
amicus curiae on the motion for leave to appeal
herein granted and the proposed brief is accepted as
filed.
Judges Garcia and Halligan took no part.

1 Mo. No. 2023-276
Nigel John Eccles, et al.,
Appellants,
v.
Shamrock Capital Advisors, LLC, et al.,
Respondents.

Motion by Patrick J. Borchers, et al. for leave to
appear amici curiae on the motion for leave to appeal
herein granted and the proposed brief is accepted as
filed.
Judges Garcia and Halligan took no part.

1 Mo. No. 2023-304
Nigel John Eccles, et al.,
Appellants,
v.
Shamrock Capital Advisors, LLC, et al.,
Respondents.

Motion by New York State Trial Lawyers'
Association for leave to appear amicus curiae on the
motion for leave to appeal herein and to join the
amicus curiae brief by Patrick M. Connors granted.
Judges Garcia and Halligan took no part.

3 Mo. No. 2023-246
In the Matter of the Claim of David J.
Eisenberg,
 Respondent.
Censeohealth LLC,
 Appellant.
Commissioner of Labor,
 Respondent.

Motion for leave to appeal dismissed as untimely
(*see* CPLR 5513 [b]; *Eaton v State of New York*, 76
NY2d 824 [1990]).

4 Mo. No. 2023-262
The People &c.,
 Respondent,
 v.
Dale Finster,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2023-237
Ann Florsheim,
 Appellant,
 v.
Marriott International, Inc., &c., et al.,
 Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2023-259
The People &c.,
 Respondent,
 v.
Hector Hernandez,
 Appellant.

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

2 Mo. No. 2023-203
The People &c.,
 Respondent,
 v.
Christopher Howell,
 Appellant.

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

1 Mo. No. 2023-277
The People &c.,
 Respondent,
 v.
Laron Jackson,
 Appellant.

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

2 Mo. No. 2023-242
Elizabeth M. Kairey,
 Respondent,
 v.
Elliot M. Hirsch,
 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.
Motion for poor person relief dismissed as academic.

1 Mo. No. 2023-147
In the Matter of Kasowitz, Benson, Torres &
Friedman, LLP,
 Petitioner,
 v.
JPMorgan Chase Bank, N.A.,
 Appellant,
The Dakota, Inc.,
 Respondent,
Alphonse Fletcher, Jr.,
 Respondent;
Fletcher International, Ltd., et al.,
 Intervenors-Respondents.

Motion for leave to appeal granted.
Judge Garcia took no part.

3 Mo. No. 2023-206
Franciszek C. Kulon,
 Appellant,
 v.
Liberty Fire District et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2023-254
Faye T. Madigan, &c.,
Plaintiff,
v.
Berkeley Capital LLC, et al.,
Defendants,
Rosa Bronstein, et al.,
Respondents,
Oceana Holding Corp.,
Respondent.
Joseph Paukman,
Appellant.

On the Court's own motion, appeal dismissed, without costs, 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 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. 2023-227
The People &c.,
Respondent,
v.
Frank Molinaro,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2023-209
The People &c.,
Respondent,
v.
Robert Musmacker,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2023-217
Nassau Property Investors, LLC,
Respondent,
v.
Jason Goffe,
Appellant,
et al.,
Defendants;
Incorporated Village of Hempstead,
Intervenor-Respondent.

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

1 Mo. No. 2023-280
The People &c.,
Respondent,
v.
Derrick Neal,
Appellant.

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

1 Mo. No. 2023-214
In the Matter of Jolifier Noe, et al.,
Appellants,
v.
Local 983, et al.,
Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2023-114
Marina V. Oetiker,
Appellant,
v.
Hudson River Park Trust,
Respondent,
et al.,
Defendant.

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

2 Mo. No. 2023-173
Ana Orellana,
Appellant,
v.
Town of Carmel, et al.,
Respondents.

Motion for leave to appeal granted.

2 Mo. No. 2023-194
Paul Orlando,
Respondent,
v.
County of Putnam,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2022-782
The People &c.,
Respondent,
v.
Mark Rodriguez,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2023-230
Seagate Mini Mall, Inc., et al.,
Appellants,
v.
Seagate Association, Inc.,
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. 2023-258
In the Matter of William Shankle,
Appellant,
v.
Vincent Del Guidice, &c., et al.,
Respondents.

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.

1 Mo. No. 2023-270
Maria Sicola,
Appellant,
v.
Cushman & Wakefield, Inc.,
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2023-225
In the Matter of Jeffrey Terborg,
Appellant,
v.
New York State Department of Corrections
and Community Supervision,
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 ancillary relief dismissed upon the ground that this Court does not have jurisdiction to entertain it (*see* NY Const, art VI, § 3).

2 Mo. No. 2023-235
Marianella Velasquez, &c.,
 Appellant,
 v.
Sunstone Red Oak, LLC, &c., et al.,
 Respondents.

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

3 Mo. No. 2023-271
In the Matter of Kerri Voges,
 Appellant,
 v.
Thomas P. DiNapoli, &c.,
 Respondent.

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

1 Mo. No. 2023-218
Linda Grant Williams,
 Appellant,
 v.
Citigroup, Inc., et al.,
 Respondents.

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

4 Mo. No. 2023-241
Thomas C. Wilmot, Sr., et al.,
 Respondents,
 v.
Tony Kirik,
 Appellant,
County of Monroe,
 Respondent.

Motion for reconsideration of this Court's February 14, 2023 dismissal order dismissed as untimely (*see* Rules of the Ct of Appeals [22 NYCRR] § 500.24 [b]).
Motion for leave to appeal denied.
Judge Halligan took no part.

1 Mo. No. 2023-284
Shakeya Woodward,
 Appellant,
 v.
New York City, et al.,
 Respondents.

In the Matter of Shakeya Woodward,
 Appellant,
 v.
New York State Office of Children and
Family Services, et al.,
 Respondents.

Motion for reargument of motion for leave to appeal
denied.
Judge Halligan took no part.