

November 18, 2015

CASES

2 No. 173
In the Matter of Anthony Frank Fizzinoglia,
&c., Deceased.

Josephine Paradiso Fizzinoglia,
Appellant;
Frank Fizzinoglia,
Respondent.

Order affirmed, with costs, in a memorandum.
Chief Judge Lippman and Judges Pigott, Rivera,
Abdus-Salaam, Stein and Fahey concur.

2 No. 155
The People &c.,
Respondent,
v.
Alfred Gary,
Appellant.

Order affirmed, in a memorandum.
Chief Judge Lippman and Judges Pigott, Rivera,
Abdus-Salaam, Stein and Fahey concur.

1 No. 159
The People &c.,
Respondent,
v.
Pettis Hardy,
Appellant.

Order affirmed.
Opinion by Judge Fahey.
Chief Judge Lippman and Judges Pigott, Rivera,
Abdus-Salaam and Stein concur.

1 No. 171
The People &c.,
Respondent,
v.
Daniel Israel,
Appellant.

Order affirmed.
Opinion by Judge Stein.
Chief Judge Lippman and Judges Pigott, Rivera,
Abdus-Salaam and Fahey concur.

MOTIONS

4 SSD 55
Acquest Wehrle, LLC,
 Appellant-Respondent,
 v.
Town of Amherst,
 Respondent-Appellant.
(Appellate Division No. 14-00117).

Appeals 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.

4 SSD 56
Acquest Wehrle, LLC,
 Respondent,
 v.
Town of Amherst,
 Appellant.
(Appellate Division No. 14-01436).

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.

 Mo. No. 2015-1224
Beck Chevrolet Co., Inc.,
 Appellant,
 v.
General Motors LLC,
 Respondent.

Motion by Greater New York Automobile Dealers Association, Inc. for leave to appear amicus curiae on consideration of the certified questions herein granted only to the extent that the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

1 Mo. No. 2015-1036
In the Matter of Jay Bradshaw,
 Appellant,
 v.
Denis J. Boyle,
 Respondent.

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

4 Mo. No. 2015-1165
The People &c.,
Respondent,
v.
Timothy Brewer,
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 SSD 54
Luis Caceres, et al.,
Respondents,
v.
Standard Realty Associates, Inc.,
et al.,
Appellants.
(And a Third-Party Action).

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.

1 SSD 53
Jennifer Cangro,
Appellant,
v.
Gina Marie Reitano,
Respondent.

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

2 Mo. No. 2015-1216
The People &c.,
Respondent,
v.
William Cook,
Appellant.

Motion for poor person relief granted.

The People &c.,
Appellant,
v.
William Cook,
Respondent.

1 Mo. No. 2015-1174
The People &c.,
 Respondent,
 v.
Kevin Fisher,
 Appellant.

Motion for assignment of counsel granted and Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, NY 10007 assigned as counsel to the appellant on the appeal herein.

3 Mo. No. 2015-1024
In the Matter of Michael Flournoy,
 Appellant,
 v.
Norman R. Bezio, &c., 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.
Judge Stein took no part.

2 Mo. No. 2015-1014
Gerald Gardner Wright, P.C. & Associates,
 Appellant,
 v.
Champion Property Management, LLC, 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 a stay dismissed as academic.

 Mo. No. 2015-1141
The People &c.,
 Respondent,
 v.
Zachary T. Guerin,
 Appellant.

Motion to vacate this Court's August 21, 2015 dismissal order granted.

2 Mo. No. 2015-1229
The People &c.,
 Respondent,
 v.
Ronnell Jordan,
 Appellant.

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

2 SSD 58
Manufacturers and Traders Trust Company,
&c.,
 Plaintiff,
 v.
Anne Berthole, &c., et al.,
 Defendants,
Anthony Berthole,
 Respondent,
Gladys Menardy,
 Appellant.

 Mo. No. 2015-1171
The People &c.,
 Respondent,
 v.
Kaity Marshall,
 Appellant.

1 Mo. No. 2015-1212
Millennium Holdings LLC,
 Plaintiff,
The Northern Assurance Company of
America,
 Appellant,
Certain Underwriters at Lloyd's, et al.,
 Intervenors-Appellants,
 v.
The Glidden Company, &c., et al.,
 Respondents.

1 Mo. No. 2015-1009
Nancy Waldbaum Nimkoff,
 Respondent,
 v.
Ronald A. Nimkoff,
 Appellant.

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

Motion by Innocence Project, Inc. for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed.

Motion by United Policyholders for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

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. Judge Abdus-Salaam took no part.

3 SSD 57
In the Matter of Arlene K. Parris,
 Appellant,
 v.
Commissioner of Labor,
 Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that it does not lie (see CPLR 5601).

3 Mo. No. 2015-1115
The People &c.,
 Appellant,
 v.
Harold L. Petke,
 Respondent.

Motion to vacate this Court's September 3, 2015 preclusion order granted.

4 Mo. No. 2015-1241
Kelly G. Sheridan,
 Respondent,
 v.
David E. Sheridan,
 Appellant.
Kelly M. Corbett, Attorney for
the Child,
 Appellant.

Motion for poor person relief granted.

1 Mo. No. 2015-985
Blanca Soltero,
 Appellant-Respondent,
 v.
City of New York,
 Respondent-Appellant.

Motions for leave to appeal dismissed upon the ground that the Appellate Division order from which both parties seek leave to appeal has been vacated and superceded by a subsequent order of that court.

4 Mo. No. 2015-1164
The People &c.,
 Respondent,
 v.
Harvert Stephens,
 Appellant.

Motion for assignment of counsel granted and Philip Rothschild, Esq., Frank H. Hiscock Legal Aid Society, 351 South Warren Street, Syracuse, NY 13202 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2015-1166
The People &c.,
Respondent,
v.
John Stone,
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.

1 Mo. No. 2015-1201
The People &c.,
Appellant,
v.
Carlos Valentin,
Respondent.

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 respondent on the appeal herein.

2 Mo. No. 2015-1071
The People &c. ex rel. Robert A. Walters, on
behalf of Carl Smith,
Appellant,
v.
Commissioner of New York City Department
of Corrections et al.,
Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2015-1152
The People &c.,
Appellant,
v.
Brandon Warrington,
Respondent.

Motion for assignment of counsel granted and Paul J. Connolly, Esq., 2 Wedge Road, Delmar, NY 12207 assigned as counsel to the respondent on the appeal herein.