

May 1, 2018

CASES

2 No. 39
Contact Chiropractic, P.C., as Assignee of
Girtha Butler,
 Respondent,
 v.
New York City Transit Authority,
 Appellant.

Order reversed, with costs, that branch of defendant's motion which was to dismiss the complaint as time-barred granted and certified question answered in the negative.

Opinion by Judge Fahey.

Chief Judge DiFiore and Judges Stein and Feinman concur, Judge Stein in a concurring opinion.

Judge Garcia dissents and votes to affirm in an opinion in which Judges Rivera and Wilson concur.

 No. 88 SSM 5
The People &c.,
 Appellant,
 v.
Daria N. Epakchi,
 Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, and case remitted to the Appellate Term, Second Department, Ninth and Tenth Judicial Districts, for further proceedings. Because the case originated in a local criminal court and the proceedings were not transcribed by a court stenographer, the appeal was not properly taken due to the failure to serve or file an affidavit of errors (see CPL 460.10[3]).

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

3 No. 41
In the Matter of FMC Corporation,
 Respondent,
 v.
New York State Department of
Environmental Conservation,
 Appellant.

Order, insofar as appealed from, reversed, with costs, petition dismissed and certified question answered in the affirmative.

Opinion by Judge Wilson.

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

Judge Garcia took no part.

4 No. 89 SSM 6
The People &c.,
 Appellant,
 v.
Ricky D. Gates,
 Respondent.

On review of submissions pursuant to section 500.11
of the Rules, order affirmed, in a memorandum.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Wilson and Feinman concur.
Judge Garcia dissents in an opinion.

MOTIONS

2 Mo. No. 2018-115
John Abbott, &c.,
 Respondent,
 v.
Monica Johnson, et al.,
 Defendants,
YBG Construction of N.Y., LLC et al.,
 Appellants,
Fox United, Inc.,
 Respondent.

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as affirmed so much of the Supreme Court order as denied the motion of YBG Construction of N.Y., LLC and Bushwick Realty II, LLC for summary judgment dismissing the complaint insofar as asserted against them, 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.

2 Mo. No. 2018-148
In the Matter of Maher Abdelqader,
 Respondent,
 v.
Anwar Abdelqader, et al.,
 Appellants.

Motion, insofar as Anwar Abdelqader seeks leave to appeal from so much of the Appellate Division order as affirmed the April 2016 Supreme Court order granting the CPLR 5206(e) petition insofar as asserted against him, denied; motion, insofar as made by Mayson Zaben and Nashat Abdelqader for leave to appeal from that portion of the Appellate Division order that dismissed their appeals from the April 2016 Supreme Court order denying the CPLR 5206(e) petition as against them and granting the petition insofar as asserted against Anwar Abdelqader, dismissed upon the ground that, as to that portion of the order, they are not parties aggrieved (see CPLR 5511); motion for leave to appeal otherwise dismissed upon the ground that the remaining portions of the Appellate Division order do not finally determine the proceeding within the meaning of the Constitution.

3 Mo. No. 2018-204
In the Matter of Cheryl Ackerman,
 Appellant,
 v.
New York State Department of Health,
 Respondent.

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

3 Mo. No. 2018-157
Joseph Adamo, et al.,
 Appellants,
 v.
City of Albany,
 Respondent.

On the Court's own motion, appeal dismissed,
without costs, upon the ground that no appeal lies as
of right from the unanimous order of the Appellate
Division absent the direct involvement of a
substantial constitutional question (see CPLR 5601).
Motion for leave to appeal denied with one hundred
dollars costs and necessary reproduction
disbursements.

1 Mo. No. 2018-296
The People &c.,
 Respondent,
 v.
Juan Carlos Baez,
 Appellant.

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

4 Mo. No. 2018-216
Jo-Louise Baker,
 Respondent,
 v.
John A. Lisconish,
 Respondent,
Santo Heating and Air Conditioning, Inc.,
 Appellant.

Motion to dismiss appeal granted and appeal
dismissed, with four hundred dollars costs and one
hundred dollars costs of motion, upon the ground
that the order appealed from does not finally
determine the action within the meaning of the
Constitution.

1 Mo. No. 2018-188
The People &c.,
 Respondent,
 v.
Ronald Biavaschi,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2018-191
Arthur Blake,
 Appellant,
 v.
State of New York,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2018-189
The People &c.,
 Respondent,
 v.
Ronald Bower,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2018-285
The People &c.,
 Respondent,
 v.
Gary Cox,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2018-274
The People &c.,
 Respondent,
 v.
Timothy Crosby,
 Appellant.

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

2 Mo. No. 2018-176
The People &c.,
Respondent,
v.
Chealique Curry,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2018-200
Larell Fowler, et al.,
Appellants,
v.
City of New York, 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.

4 Mo. No. 2018-223
In the Matter of the Arbitration between
Town of Greece,
Appellant,
Civil Service Employees Association, Inc.,
Local 828, AFSCME, AFL-CIO,
Respondent.

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

4 Mo. No. 2018-309
The People &c. ex rel. Michael J. Hill,
Appellant,
v.
Niagara County District Attorney,
Respondent.

Motion for leave to appeal dismissed upon the ground that no appeal lies from an order of an individual Justice of the Appellate Division (see NY Const, art VI, § 3[b]; CPLR 5602).
Motion for poor person relief dismissed as academic.

3 Mo. No. 2018-235
In the Matter of Fred Hutzenlaub,
Appellant,
v.
Donald Venettozzi &c., et al.,
Respondents.

Motion for reconsideration of this Court's January 9, 2018 dismissal order denied.

4 Mo. No. 2018-283

The People &c.,
Respondent,

v.

Raymond L. Leach, Jr.,
Appellant.

Motion for leave to appeal denied.

Motion for poor person relief dismissed as academic.

2 Mo. No. 2018-245

In the Matter of London Leasing Limited
Partnership,
Appellant,

v.

Division of Housing and Community
Renewal,
Respondent.

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

2 Mo. No. 2018-232

In the Matter of Isabella McClancy, &c.,
Appellant,

v.

Plainedge Union Free School District,
Respondent.

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

3 Mo. No. 2018-238

In the Matter of Logan MM., &c.

Delaware County Department of Social
Services,

Respondent;

Clifton NN.,

Appellant,

et al.,

Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2018-225
PAF-PAR LLC,
Appellant,
v.
Michael Silberberg et al.,
Respondents.

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

4 Mo. No. 2018-247
The People &c.,
Respondent,
v.
Samuel Perez,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2018-265
In the Matter of Alex H. Pierre, &c., an
Attorney.

Motion for leave to appeal dismissed upon the ground that it is untimely (see CPLR 5513[b]). Motion for poor person relief &c. dismissed as academic.

Attorney Grievance Committee for the First
Judicial Department,
Respondent;
Alex H. Pierre,
Appellant.

4 Mo. No. 2018-253
In the Matter of G. Steven Pigeon,
Appellant,
v.
Donald F. Cerio, Jr., &c. et al.,
Respondents.

Motion for leave to appeal dismissed upon the ground that the issues presented have become moot. Judge Fahey took no part.

3 Mo. No. 2018-234
In the Matter of James R. Pine,
Appellant,
v.
Anthony J. Annucci, &c.,
Respondent.

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

2 Mo. No. 2018-214
Saphyre Redford, also known as Crystal
Biton,
 Appellant,
 v.
Wilmer Hill Grier,
 Respondent.

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain this motion for leave to appeal from the order of the Appellate Division entered in this action commenced in the Civil Court of the City of New York (see NY Const, art VI, § 3[b][7]; CPLR 5602[a]).

1 Mo. No. 2018-241
Risk Control Associates Insurance Group,
 Appellant,
 v.
Maloof, Lebowitz, Connahan & Oleske, P.C.,
et al.,
 Respondents.

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

3 Mo. No. 2018-308
In the Matter of Kathy Rumble et al.,
 Respondents,
 v.
Aaron Powell,
 Appellant.

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. 2018-233
Joseph A.F. Sadowski,
 Appellant,
 v.
David W. Harmon,
 Respondent;
Wendy K. Cardali,
 Nonparty-Respondent.

Motion for reargument denied.
Motion for poor person relief dismissed as academic.
Motion for a stay dismissed as academic.
Motion for ancillary relief dismissed upon the ground that this Court does not have jurisdiction to entertain it (see NY Const, art VI, § 3).

4 Mo. No. 2018-246
The People &c.,
Respondent,
v.
Andrew Sheradin,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2018-194
In the Matter of Wayne Spence, &c. et al.,
Appellants,
v.
New York State Department of Civil Service,
et al.,
Respondents.

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

4 Mo. No. 2018-250
The People &c.,
Respondent,
v.
Seles Varin,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2018-227
In the Matter of Joseph Vidal,
Appellant,
v.
William A. Lee, &c., et al.,
Respondents.

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

2 Mo. No. 2018-182
In the Matter of John C. Wright,
Respondent,
v.
Jeffrey B. Irish,
Appellant,
et al.,
Respondent.

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

4 Mo. No. 2018-244
The People &c.,
 Respondent,
 v.
Nathaniel Wright,
 Appellant.

Motion for leave to appeal denied.