

State of New York
Court of Appeals

Decisions

March 17, 2022

CASES

1 No. 14
The People &c.,
 Respondent,
 v.
Angelo Burgos,
 Appellant.

Order affirmed.
Opinion by Judge Troutman.
Chief Judge DiFiore and Judges Rivera, Garcia,
Wilson, Singas and Cannataro concur.

4 No. 49 SSM 36
In the Matter of Yvonne Gray,
 Respondent,
 v.
R. Anthony LaFountain, &c. et al.,
 Appellants.

On review of submissions pursuant to section 500.11 of the Rules, determination appealed from and order of the Appellate Division brought up for review reversed, with costs, and petition dismissed. Substantial evidence supports respondents' determination finding petitioner guilty of charges 1 and 2. Moreover, in light of all the circumstances, including the unchallenged findings of guilt on charges 3 and 4, the penalty of termination was not so disproportionate to the offenses as to be shocking to one's sense of fairness (*see Matter of Pell v Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County*, 34 NY2d 222, 233-235 [1974]).
Chief Judge DiFiore and Judges Rivera, Garcia, Wilson, Singas and Cannataro concur.
Judge Troutman took no part.

2 No. 13
Darrelle Revis et al.,
 Appellants,
 v.
Neil Schwartz, et al.,
 Respondents.

Order affirmed, with costs, in a memorandum.
Chief Judge DiFiore and Judges Rivera, Garcia,
Wilson, Singas, Cannataro and Troutman concur.

4 No. 48 SSM 23
In the Matter of Irelynn S.

Onondaga County Department of Children
and Family Services,
 Respondent;
Maurice S.,
 Appellant.

1 No. 11
U.S. Bank National Association, &c.,
 Respondent,
 v.
DLJ Mortgage Capital, Inc.,
 Appellant.

On review of submissions pursuant to section 500.11
of the Rules, order affirmed, without costs.
Appellant has failed to raise any arguments that
warrant reversal of the Appellate Division order.
Before this Court, appellant does not dispute the
Appellate Division's determination that his failure to
appear constituted a default.
Chief Judge DiFiore and Judges Garcia, Singas,
Cannataro and Troutman concur.
Judge Rivera dissents in an opinion, in which Judge
Wilson concurs.

Order insofar as appealed from reversed, with costs,
defendant's motion for partial summary judgment
granted in accordance with the opinion herein and
certified question answered in the negative.
Opinion by Chief Judge DiFiore.
Judges Garcia, Singas, Cannataro, Troutman and
LaSalle concur.
Judge Rivera dissents in part in an opinion.
Judge Wilson took no part.

MOTIONS

1 Mo. No. 2021-877
45 Renwick Street, LLC,
Respondent,
v.
Lionbridge, LLC,
Appellant.

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

1 Mo. No. 2022-191
ACE Securities Corp., &c.,
Appellant,
v.
DB Structured Products, Inc.,
Respondent.

Motion by Robert Hockett, et al. for leave to file a brief amici 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.

1 Mo. No. 2021-878
In the Matter of Heaven Gabriella B., &c.

Tamara B.,
Appellant;
St. Dominic's Home,
Respondent;

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

3 Mo. No. 2022-174
The People &c.,
Respondent,
v.
Dakota W. Baldwin,
Appellant.

Motion for assignment of counsel granted and Clea Weiss, Esq., 10 North Fitzhugh Street, Rochester, NY 14614 assigned as counsel to the appellant on the appeal herein.

3 Mo. No. 2022-105
The People &c.,
Respondent,
v.
Devon T. Butler,
Appellant.

Motion by New York State Association of Criminal Defense Lawyers for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed letter brief is accepted as filed. One copy of the letter brief must be served, an original and two copies filed, and the letter brief submitted in digital format within seven days.

1 Mo. No. 2021-835
Xue Chen,
 Appellant,
 v.
Anita Lockett,
 Respondent.

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

4 Mo. No. 2021-1005
In the Matter of Charlene Childers,
 Appellant,
 v.
Nicole M. Gunkel,
 Respondent.

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

4 Mo. No. 2021-933
In the Matter of Coalition for Cobbs Hill, &c.,
et al.,
 Appellants,
 v.
City of Rochester, et al.,
 Respondents.

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

1 Mo. No. 2021-887
The People &c.,
 Respondent,
 v.
Elpidio Concevalerio,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2021-961
In the Matter of Kasimir Lee D., &c.

New York Foundling Hospital,
 Respondent;
Jasmaine D.,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2022-69
In the Matter of Michael A. Deem,
 Appellant,
 v.
Gretchen Walsh, &c.,
 Respondent.

On the Court's own motion, appeals dismissed, without costs, upon the grounds that, as to the December 8, 2021 Appellate Division order, no substantial constitutional question is directly involved and, as to the "Papers Rejection Notice," the paper appealed from is neither a judgment nor an order from which an appeal to this Court may be taken (*see* CPLR 5512 [a]; 5601).
Motion for leave to appeal denied.
Chief Judge DiFiore took no part.

2 SSD 8
Deutsche Bank National Trust Company, &c.,
 Respondent,
 v.
Sharon Le-Mond,
 Appellant,
et al.,
 Defendants.

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.

3 Mo. No. 2021-982
In the Matter of Lynne F.,
 Respondent,
 v.
Thomas G.,
 Appellant.

Motion for leave to appeal dismissed upon the ground that appellant is not a party aggrieved (*see* CPLR 5511).
Motion for poor person relief dismissed as academic.

4 Mo. No. 2021-925
In the Matter of Finger Lakes Railway Corp.,
 Appellant,
 v.
City of Canandaigua, et al.,
 Respondents.

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

1 Mo. No. 2021-857
In the Matter of Gibson, Dunn & Crutcher
LLP,
 Respondent,
 v.
World Class Capital Group, LLC et al.,
 Appellants.

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

4 Mo. No. 2021-952
In the Matter of Brandon I.J.

Monroe County Department of Human
Services,
 Respondent;
Daisy D.,
 Appellant.
(And Another Proceeding.)

Motion for leave to appeal denied.

3 Mo. No. 2021-880
James B. Nutter & Company,
 Appellant,
 v.
County of Saratoga et al.,
 Respondents,
et al.,
 Defendants.

Motion for leave to appeal granted.

3 Mo. No. 2021-914
In the Matter of Patrick Jeanty,
 Appellant,
 v.
Anthony J. Annucci, &c. et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2021-890
The People &c.,
 Respondent,
 v.
Eric Jones,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2021-883
JPMorgan Chase Bank, National Association,
Respondent,
v.
Kenneth Lee,
Appellant,
et al.,
Defendants.

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

1 SSD 5
In the Matter of Cavalier D. Knight,
Appellant,
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.

4 Mo. No. 2021-938
In the Matter of Salvatore F. Lanza, &c.,
Appellant;
Grievance Committee of the Fifth Judicial
District,
Respondent.

Motion for leave to appeal dismissed upon the ground that appellant is not a party aggrieved (*see* CPLR 5511).

4 Mo. No. 2021-905
Rodney Long,
Appellant,
v.
Graphic Controls Acquisition Corp. et al.,
Respondents.

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. 2021-930
In the Matter of Sonya M.,
 Respondent,
 v.
Tabu N.,
 Respondent,
Helen O.,
 Appellant.
(And Two Other Related Proceedings.)

In the Matter of Helen O.,
 Appellant,
 v.
Sonya M.,
 Respondent,
Tabu N.,
 Respondent.
(And Two Other Related Proceedings.)

3 Mo. No. 2021-893
In the Matter of Kristen Mangiero,
 Appellant,
 v.
Commissioner of Labor,
 Respondent.

2 SSD 7
Nella Manko,
 Appellant,
 v.
David A. Gabay, &c., et al.,
 Respondents.
(Action Nos. 1, 2, 3)

Nella Manko,
 Appellant,
 v.
Law Offices of David A. Gabay, &c., et al.,
 Respondents.
(Action No. 4)

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

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 actions within the meaning of the Constitution.
Chief Judge DiFiore took no part.

4 Mo. No. 2022-68
The People &c. ex rel. Gary H. Moore,
Appellant,
v.
Superintendent of Marcy Correctional
Facility, et al.,
Respondents.

Motion for reconsideration of this Court's December
14, 2021 dismissal order denied.
Judge Troutman took no part.

1 Mo. No. 2021-1023
In the Matter of Amber N.,
Respondent,
v.
Andrew S.,
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.

4 Mo. No. 2021-936
Suzanne P., &c.,
Appellant,
v.
Joint Board of Directors of Erie-Wyoming
County Soil Conservation District, &c., et al.,
Respondents.

Motion for leave to appeal granted.

4 Mo. No. 2021-902
The People &c.,
Respondent,
v.
Austin Pelletier,
Appellant.

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

3 Mo. No. 2021-1030

In the Matter of David Q.,
Appellant,

v.

Schoharie County Department of Social
Services,

Respondent.

(And Another Proceeding.)

In the Matter of Colby R., &c.

Schoharie County Department of Social
Services,

Respondent;

David Q.,

Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2021-992

In the Matter of Brianna K.R., et al., &c.

Bernard R.,

Appellant,

et al.,

Respondent;

Sheltering Arms Children & Family Services,

Respondent.

Motion for leave to appeal denied.

Motion for poor person relief dismissed as academic.

1 Mo. No. 2021-1021

In the Matter of Raul R. (III), &c.

Catholic Guardian Services,

Respondent;

Raul R.,

Appellant,

Cynthia R.,

Respondent,

Jeanette A.,

Respondent.

Motion for leave to appeal denied.

Motion for poor person relief dismissed as academic.

Motion for a stay dismissed as academic.

3 Mo. No. 2022-203
Kim E. Schoch,
Respondent,
v.
Lake Champlain OB-GYN, P.C.,
Appellant.

Columbia Memorial Hospital,
Appellant,
v.
Marcel E. Hinds,
Respondent.

Maple Medical, LLP,
Appellant,
v.
Joseph Scott, &c.,
Respondent,
et al.,
Defendant.
(And Five Other Appeals.)

1 Mo. No. 2021-817
Technology Insurance Company et al.,
Appellants,
v.
First Mercury Insurance Company,
Respondent.

1 Mo. No. 2021-983
Maktumma Teshabaeva et al.,
Respondents,
v.
Family Home Care Services of Brooklyn &
Queens, Inc., et al.,
Appellants.

Motion by Wycoff Heights Medical Center for leave to appear amicus curiae on the appeal herein granted only to the extent that 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.

Motion for leave to appeal denied.

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

1 Mo. No. 2021-1019
Maktumma Teshabaeva et al.,
 Respondents,
 v.
Family Home Care Services of Brooklyn &
Queens, Inc., et al.,
 Appellants.

Motion to dismiss appeal granted and appeal dismissed, with four hundred dollars costs and one hundred dollars costs of motion, upon the ground that no substantial constitutional question is directly involved.

1 Mo. No. 2021-910
Top Grade Excavating New York Inc.,
 Respondent,
 v.
HDMI Holdings LLC, et al.,
 Defendants,
Airitan Management Corp.,
 Appellant.

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

3 Mo. No. 2021-1020
In the Matter of Madelyn V., &c.

Lucas W.,
 Respondent;
Jared V.,
 Appellant.

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

3 Mo. No. 2021-931
The People &c. ex rel. Richard Vale,
 Appellant,
 v.
Superintendent William Lee, &c.,
 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.