

March 27, 2014

CASES

1 No. 8

Biotronik A.G.,
 Appellant,
 v.
Conor Medsystems Ireland, Ltd., et al.,
 Respondents.

Order reversed, with costs, case remitted to the Appellate Division, First Department for further proceedings in accordance with the opinion herein, and certified question not answered upon the ground that it is unnecessary.
Opinion by Judge Rivera.
Chief Judge Lippman and Judges Graffeo and Smith concur.
Judge Read dissents in an opinion in which Judges Pigott and Abdus-Salaam concur.

1 No. 35

The People &c.,
 Appellant,
 v.
Angel Cintron,
 Respondent.

Order reversed, defendant's CPL 440.20 motion denied and defendant's 2008 resentencing reinstated.
Opinion by Chief Judge Lippman.
Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

1 No. 16

Brenda Cornell,
 Respondent,
 v.
360 West 51st Street Realty, LLC, et al.,
 Defendants,
360 West 51st Street Corp.,
 Appellant.

Order reversed, with costs, defendant 360 West 51st Street Corp.'s motion for summary judgment dismissing the complaint against it granted, and certified question answered in the negative.
Opinion by Judge Read.
Judges Graffeo, Smith and Rivera concur.
Judge Pigott dissents and votes to affirm in an opinion in which Chief Judge Lippman concurs.
Judge Abdus-Salaam took no part.

No. 45
Matthew Isabella et al.,
Plaintiffs,
Doris A. Hallock et al.,
Third-Party Respondents,
v.
Michael W. Koubek,
Third-Party Appellant.

Following certification of a question by the United States Court of Appeals for the Second Circuit and acceptance of the question by this Court pursuant to section 500.27 of this Court's Rules of Practice, and after hearing argument by counsel for the parties and consideration of the briefs and the record submitted, certified question answered in the negative.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

1 No. 34
William Jacobsen,
Appellant,
v.
New York City Health and Hospitals
Corporation,
Respondent.

Order modified, without costs, by reinstating the first and second causes of action in the complaint and, as so modified, affirmed, and certified question not answered as unnecessary.
Opinion by Judge Abdus-Salaam.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Rivera concur.

No. 124 SSM 5
The People &c.,
Respondent,
v.
Harouna Kasse,
Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

No. 126

Huyen V. Nguyen,
Petitioner,
v.
Eric H. Holder, Jr.,
United States Attorney General,
Respondent.

Certification of a question by the United States Court of Appeals for the Second Circuit, pursuant to section 500.27 of this Court's Rules of Practice, accepted and the issues presented are to be considered after briefing and argument.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

No. 127

Quaker Hills, LLC,
Respondent,
v.
Pacific Indemnity Co.,
Appellant.

Pursuant to the February 25, 2014 order of the United States Court of Appeals for the Second Circuit withdrawing its certification of questions accepted by this Court on September 17, 2013, certified questions marked withdrawn.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

1 No. 122 SSM 3
In the Matter of H. Kenneth Ranftle, &c.,
Deceased.

Ronald J. Ranftle,
Appellant,
J. Craig Leiby,
Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question not answered upon the ground that it is unnecessary. The affirmed findings of fact regarding decedent's change of domicile, made under the proper evidentiary standard, have support in the record and are beyond our further review.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Rivera concur.
Judge Abdus-Salaam took no part.

No. 125

Tire Engineering and Distribution L.L.C., et al.,

Appellants,

Bcatco A.R.L.,

Plaintiff,

v.

Bank of China Limited,

Respondent.

Motorola Credit Corporation,
Appellant-Respondent,

Nokia Corporation,
Plaintiff-Counter-
Defendant,

Motorola, Inc., et al.,
Counter Defendants.

v.

Standard Chartered Bank,
Respondent-Appellant,

Murat Hakan Uzan, et al.,
Defendants-Counter-
Claimants,

Kemal Uzan, et al.,
Defendants.

3 No. 33

The People &c.,
Respondent,

v.

Vincent Zeh,
Appellant.

Pursuant to the February 24, 2014 order of the United States Court of Appeals for the Second Circuit withdrawing one of two questions accepted by this Court on February 18, 2014, in particular the certified question related to Tire Engineering and Distribution L.L.C., et al. v Bank of China Limited, that certified question is marked withdrawn.

Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

Order reversed and case remitted to County Court, Ulster County, for further proceedings in accordance with the memorandum herein.

Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

MOTIONS

1 Mo. No. 2013-1246
Amalgamated Bank,
 Respondent,
 v.
Helmsley-Spear, Inc.,
 Defendant,
Schneider & Schneider, Inc.,
et al.,
 Appellants.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that denied the motion to intervene, 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 granted.

1 Mo. No. 2014-122
In the Matter of Christopher B., &c.

Melvin B.,
 Appellant,
Saint Dominic's Home,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2014-110
In the Matter of Diana B. (Anonymous),
 Respondent,
 v.
Lorry B. (Anonymous),
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2014-281
The People &c.,
 Appellant,
 v.
Roman Baret,
 Respondent.

Motion by Lenni Benson et al. for leave to file a brief amici curiae on the appeal herein granted and 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. Judge Abdus-Salaam took no part.

1 Mo. No. 2014-283
The People &c.,
 Appellant,
 v.
Roman Baret,
 Respondent.

Motion by New York State Defenders Association, Inc. et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed.
Judge Abdus-Salaam took no part.

2 Mo. No. 2014-285
Daniel Capruso, et al.,
 Respondents,
 v.
Village of Kings Point, et al.,
 Appellants.

Motion by Citizens Campaign for the Environment et al. for leave to file a brief amici curiae on the appeal herein granted and 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.

State of New York,
 Respondent,
 v.
Village of Kings Point,
 Appellant.

2 Mo. No. 2014-313
Daniel Capruso, et al.,
 Respondents,
 v.
Village of Kings Point, et al.,
 Appellants.

Motion by New York State Conference of Mayors and Municipal Officials for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed.

State of New York,
 Respondent,
 v.
Village of Kings Point,
 Appellant.

2 Mo. No. 2014-89
In the Matter of Lois Carter,
 Appellant,
 v.
Jeffrey Carter,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2014-227
Cooperstown Holstein Corporation,
Appellant,
v.
Town of Middlefield,
Respondent.

Motion by Independent Oil and Gas Association of New York, Inc. for leave to file a brief amicus curiae on the appeal herein granted and 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.

4 Mo. No. 2014-190
The People &c.,
Respondent,
v.
William Cullen,
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. 2013-1253
Nelson Denis, &c.,
Appellant,
v.
Manhattanville Rehabilitation and Health Care Center, LLC, &c., et al.,
Respondents.

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

3 Mo. No. 2014-33
In the Matter of Luis Eugenio,
Appellant,
v.
Brian Fischer, &c.,
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2014-43
In the Matter of Jah'Meir G., &c.

Tompkins County Department of Social
Services,
 Respondent;
Eshale G.,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2014-21
In the Matter of Jose Garcia,
 Appellant,
 v.
Administration for Children's Services,
 Respondent.

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

1 Mo. No. 2014-189
The People &c.,
 Respondent,
 v.
Raphael Golb,
 Appellant.

Motion by National Association of Criminal Defense
Lawyers et al. for leave to file a brief amici curiae on
the appeal herein granted and 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. 2014-41
In the Matter of David H.,
 Appellant,
 v.
Khalima H.,
 Respondent.

Motion for leave to appeal dismissed for failure to
demonstrate timeliness as required by Rules of the
Court of Appeals (see 22 NYCRR § 500.22[b][2]).
Motion for poor person relief dismissed as academic.

2 Mo. No. 2014-249
In the Matter of Trenasia J. (Anonymous).

Administration for Children's Services,
Respondent;
Frank J. (Anonymous),
Appellant.
(And Three Other Proceedings.)

Motion for poor person relief granted.

1 Mo. No. 2014-290
KeySpan Gas East Corporation,
Respondent,
v.
Munich Reinsurance America, Inc. et al.,
Appellants.

Motion by The Environmental Energy Alliance of
New York, LLC for leave to file a brief amicus
curiae on the appeal herein granted and the proposed
brief is accepted as filed.
Judge Rivera took no part.

1 Mo. No. 2014-48
Patrick Lynch, &c., et al.,
Respondents,
v.
The City of New York, et al.,
Appellants.

Motion to vacate this Court's December 26, 2013
preclusion order granted.

1 Mo. No. 2014-78
In the Matter of Deime Zechariah Luke M. et
al.

Sharon Tiffany M.,
Appellant,
Cardinal McCloskey Services,
Respondent.

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

4 Mo. No. 2013-1263
In the Matter of Jose D. Martinez,
Appellant,
v.
Brian Fischer, &c., et al.,
Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2014-79
The People &c. ex rel. Richard Mills,
Appellant,
v.
John Lempke, &c., et al.,
Respondents.

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

4 Mo. No. 2014-277
Jannie Nesmith, &c., et al.,
Appellants,
v.
Allstate Insurance Company,
Respondent.

Motion by The New York Insurance Association,
Inc. for leave to file a brief amicus curiae on the
appeal herein granted and the proposed brief is
accepted as filed.

4 Mo. No. 2014-7
Niagara Foods, Inc., et al.,
Appellants,
v.
Ferguson Electric Service Company, Inc., et
al.,
Respondents.

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

2 Mo. No. 2014-82
In the Matter of Ana Orellana,
Respondent,
v.
Hugo Orellana,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2014-108
In the Matter of Joshua P. (Anonymous).

Administration for Children's Services,
Respondent;
David J. (Anonymous),
Appellant.
(And Five Other Proceedings.)

Motion for leave to appeal denied.

4 Mo. No. 2014-5
In the Matter of Melisa Pecore,
Appellant,
v.
Brody Blodgett,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2013-1259
The People &c.,
Appellant,
v.
David Rivera,
Respondent.

Motion to strike appellant's brief and portions of
appellant's appendix denied.

3 Mo. No. 2014-32
In the Matter of Antonio Rosa,
Appellant,
v.
Brian Fischer, &c.,
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2014-54
In the Matter of Eon Shepherd,
Appellant,
v.
Brian Fischer, &c.,
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2014-17
In the Matter of Joshua SS.,
 Appellant,

Amy RR.,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2014-45
Erez Tadmor,
 Appellant,
 v.
New York Jiu Jitsu Inc.,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2013-1285
Tullett Prebon Financial Services, et al.,
 Respondents,
 v.
BGC Financial, L.P., et al.,
 Respondents,
BG Cantor Market Data, L.P.,
et al.,
 Appellants.

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

3 Mo. No. 2014-53
The People &c.,
 Respondent,
 v.
Robert W. Tumminia,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2014-228
In the Matter of Mark S. Wallach, as Chapter
7 Trustee for Norse Energy Corp. USA,
 Appellant,
 v.
Town of Dryden et al.,
 Respondents.

Motion by Independent Oil and Gas Association of
New York, Inc. for leave to file a brief amicus curiae
on the appeal herein granted and 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.

4 Mo. No. 2014-251
The People &c.,
 Appellant,
 v.
Terrance Williams,
 Respondent.

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 respondent on the
appeal herein.

2 Mo. No. 2014-199
In the Matter of Working Families Party,
 Appellant,
 v.
Fern A. Fisher, &c., et al.,
 Respondents.

Motion by District Attorneys Association of the State
of New York for leave to appear amicus curiae on
the appeal herein granted only to the extent that the
proposed brief is accepted as filed.
Chief Judge Lippman took no part.

2 Mo. No. 2014-30
In the Matter of Ender M. Z.-P.
(Anonymous),
 Appellant,
 v.
Administration for Children's Services, et al.,
 Respondents,
Olga Z. (Anonymous),
 Respondent,
Orianne Z. (Anonymous), &c.,
et al.,
 Nonparty-Respondents.
(And Two Other Proceedings.)

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