

February 12, 2015

CASES

1 No. 71 SSM 3
Marta Alvarez,
 Appellant,
 v.
NYLL Management Ltd., et al.,
 Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs. The Appellate Division correctly concluded that plaintiff failed to raise a triable issue of fact whether she suffered a serious injury within the meaning of Insurance Law § 5102(d) as a result of the underlying motor vehicle accident. Chief Judge Lippman and Judges Read, Pigott, Rivera and Abdus-Salaam concur. Judges Stein and Fahey took no part.

4 No. 13
In the Matter of Tyrone D.,
 Appellant,
 v.
State of New York, et al.,
 Respondents.

Order affirmed, without costs. Opinion by Chief Judge Lippman. Judges Read, Pigott, Rivera and Abdus-Salaam concur. Judges Stein and Fahey took no part.

1 No. 8
The People &c.,
 Respondent,
 v.
Sandra Diaz,
 Appellant.

Order affirmed, in a memorandum. Chief Judge Lippman and Judges Read, Pigott, Rivera and Abdus-Salaam concur. Judges Stein and Fahey took no part.

1 No. 12
In the Matter of Veronica P.,
 Respondent,
 v.
Radcliff A.,
 Appellant.

Order reversed, without costs, and matter remitted to the Appellate Division, First Department, for further proceedings in accordance with the opinion herein. Opinion by Judge Abdus-Salaam. Chief Judge Lippman and Judges Read, Pigott and Rivera concur. Judges Stein and Fahey took no part.

MOTIONS

2 Mo. No. 2014-1225

The People &c.,
Respondent,

v.

Walter Coleman,
Appellant.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.
Judges Stein and Fahey took no part.

3 Mo. No. 2014-1185

In the Matter of Starla D.,
Respondent.,

v.

Jeremy E.,
Respondent.
Saratoga County Support Collection Unit,
Appellant.

Motion for leave to appeal denied.
Judges Stein and Fahey took no part.

2 Mo. No. 2015-161

Edwin Davis et al.,
Appellants,

v.

South Nassau Communities Hospital, et al.,
Respondents.

Motion by The Medical Society of the State of New York et al. for leave to appear amici 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.
Judges Stein and Fahey took no part.

4 Mo. No. 2015-55

The People &c.,
Respondent,

v.

Everett M. Durant,
Appellant.

Motion to vacate this Court's December 8, 2014 preclusion order granted.
Judges Stein and Fahey took no part.

2 Mo. No. 2015-58
The People &c.,
Respondent,
v.
Hossam Elfeke,
Appellant.

Motion for an extension of the time within which to apply for permission to appeal pursuant to CPL 460.20 granted and motion papers treated as a timely CPL 460.20 application.
Judges Stein and Fahey took no part.

2 Mo. No. 2015-128
The People &c.,
Respondent,
v.
Arthur Frazier, &c.,
Appellant.

Motion for an extension of the time within which to apply for permission to appeal pursuant to CPL 460.20 dismissed upon the ground that no application for leave to appeal pursuant to CPL 460.20 will lie from an order of a single justice of the Appellate Division denying leave to appeal to that court pursuant to CPL 460.15.
Judges Stein and Fahey took no part.

3 SSD 2
The People &c., ex rel. Santo Gonzalez,
Appellant,
v.
Joseph T. Smith, &c.,
Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.
Judges Stein and Fahey took no part.

2 Mo. No. 2015-125
In the Matter of Greater Jamaica
Development Corporation, et al.,
Respondents,
v.
New York City Tax Commission,
et al.,
Appellants.

Motion by New York State Conference of Mayors and Municipal Officials for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed.
Judges Stein and Fahey took no part.

2 Mo. No. 2014-1207
In the Matter of Sean P.H. (Anonymous).

Edwin Gould Services for Children and
Families, et al.,
Respondents;
Rosemarie H. (Anonymous),
Appellant;
et al.,
Respondent.

Motion for leave to appeal denied.
Judges Stein and Fahey took no part.

2 Mo. No. 2015-153
The People &c.,
Respondent,
v.
Andre Harrison,
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.
Judges Stein and Fahey took no part.

Mo. No. 2015-131
The People &c.,
Appellant,
v.
Frankie Hatton,
Respondent.

Motion for assignment of counsel granted and
Seymour James, Jr., Esq., The Legal Aid Society,
199 Water Street, New York, NY 10038 assigned as
counsel to the respondent on the appeal herein.
Judges Stein and Fahey took no part.

3 Mo. No. 2014-1205
In the Matter of Ilonni I., &c.

St. Lawrence County Department of Social
Services,
Respondent;
Benjamin K.,
Appellant.

Motion for leave to appeal denied.
Judges Stein and Fahey took no part.

4 Mo. No. 2015-194
The People &c.,
Appellant,
v.
Robert L. Ingram,
Respondent.

On the Court's own motion, this Court's decision of December 16, 2014 vacated, remittitur recalled and when returned, it will be amended to read as follows: Appeal dismissed upon the ground that the criminal prosecution abated by reason of defendant's death (see People v Ortiz, 77 NY2d 821 [1990]).
Judges Stein and Fahey took no part.

2 SSD 6
Victor Jordan, &c.,
Appellant,
v.
Metropolitan Jewish Hospice, et al.,
Defendants,
Roslyn L. Blackman, et al.,
Respondents.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.
Judges Stein and Fahey took no part.

1 Mo. No. 2015-139
The People &c.,
Respondent,
v.
Joel Joseph,
Appellant.

Motion for assignment of counsel granted and Seymour James, Jr., Esq., The Legal Aid Society, 199 Water Street, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.
Judges Stein and Fahey took no part.

1 Mo. No. 2014-1109
In the Matter of Lawrence Kalik, et al., &c.

Loretta Wagman,
Appellant,
v.
Lawrence Kalik, &c., et al.,
Respondents,
Chemical Bank, et al.,
Defendants,
Chase Manhattan Bank, &c.,
Respondent.

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as affirmed so much of the March 2012 Surrogate's Court order dismissing the action transferred from Supreme Court, denied; motion for leave to appeal otherwise dismissed upon the ground that the remainder of the order sought to be appealed from does not finally determine the proceeding on the Surrogate's Court accountings within the meaning of the Constitution (see Burke v Crosson, 85 NY2d 10, 15-16 [1995]).
Judges Stein and Fahey took no part.

2 Mo. No. 2014-1233
In the Matter of Jemel M.A. (Anonymous).

SCO Family of Services,
Respondent;
Elizabeth C. B. A. (Anonymous),
Appellant,
et al.,
Respondent.
(And Five Other Proceedings.)

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.
Motion for a stay dismissed as academic.
Judges Stein and Fahey took no part.

2 Mo. No. 2015-154
The People &c.,
Appellant,
v.
Shane Morris,
Respondent.

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 respondent on the appeal herein.
Judges Stein and Fahey took no part.

2 Mo. No. 2015-146
In the Matter of Natural Resources Defense
Council, Inc., et al.,
 Appellants,
 v.
New York State Department of
Environmental Conservation,
 Respondent.

Motion for leave to appeal granted.
Judges Stein and Fahey took no part.

1 Mo. No. 2015-96
The People &c.,
 Respondent,
 v.
Luis Ortiz,
 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.
Judges Stein and Fahey took no part.

3 Mo. No. 2014-1215
The People &c.,
 Respondent,
 v.
Tyrone Pace, &c.,
 Appellant.

Motion for leave to appeal denied.
Judges Stein and Fahey took no part.

 Mo. No. 2015-122
The People &c.,
 Respondent,
 v.
Stephen Pellegrino,
 Appellant.

Motion for assignment of counsel granted and
Seymour James, Jr., Esq., The Legal Aid Society,
199 Water Street, New York, NY 10038 assigned as
counsel to the appellant on the appeal herein.
Judges Stein and Fahey took no part.

3 SSD 4
In the Matter of Kelly A. Preyer,
 Respondent,
Irene S. Dische,
 Appellant,
Commissioner of Labor,
 Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved. Judges Stein and Fahey took no part.

2 Mo. No. 2015-104
The People &c.,
 Respondent,
 v.
Oscar Sanders,
 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. Judges Stein and Fahey took no part.

 Mo. No. 2015-116
The People &c.,
 Appellant,
 v.
Glenn S. Smith,
 Respondent.

Motion for assignment of counsel granted and Richard N. Lentino, Esq., 138 West Main Street, Middletown, NY 10940 assigned as counsel to the respondent on the appeal herein. Judges Stein and Fahey took no part.

2 Mo. No. 2015-126
The People &c.,
 Respondent,
 v.
Rhian Taylor,
 Appellant.

Motion for assignment of counsel granted only to the extent that Joel B. Rudin, Esq. c/o Law Offices of Joel B. Rudin, 600 Fifth Ave., Tenth Floor, New York, NY 10020 is assigned without fee to represent appellant on the appeal herein. Counsel may, however, apply for reimbursement of necessary disbursements incurred in connection with the assignment. Judges Stein and Fahey took no part.

SSD 5
Wells Fargo Bank, N.A.,
Respondent,
v.
Viola Haizlip,
Appellant,
et al.,
Defendants.

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, Third Department, upon the ground that a direct appeal does not lie where the order appealed from does not finally determine the action within the meaning of the Constitution (see NY Const, art VI, §§ 3[b][2], 5[b]; CPLR 5601[b][2]).
Judges Stein and Fahey took no part.

3 Mo. No. 2014-1232
Richard Wysong,
Appellant,
v.
Farm Family Casualty Insurance Company et
al.,
Respondents.

Motion, insofar as it seeks leave to appeal from the August 2014 Appellate Division order denying reconsideration and the October 2014 Appellate Division order denying leave to appeal, dismissed upon the ground that such orders do not finally determine the action within the meaning of the Constitution; motion, insofar as it seeks leave to appeal from the February 2013 Appellate Division order of affirmance, dismissed for failure to demonstrate timeliness as required by Rules of the Court of Appeals (22 NYCRR) § 500.22(b)(2).
Judges Stein and Fahey took no part.