

March 31, 2015

CASES

No. 44
Walter R. Beardslee, &c., et al.,
Respondents,
v.
Inflection Energy, LLC, et al.,
Appellants.

Following certification of questions by the United States Court of Appeals for the Second Circuit and acceptance of the questions 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 record submitted, second certified question answered in the negative and first certified question not answered as academic. Opinion by Judge Pigott. Chief Judge Lippman and Judges Read, Rivera, Abdus-Salaam, Stein and Fahey concur.

1 No. 101 SSM 2
The People &c.,
Respondent,
v.
Anthony C.,
Appellant.

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

1 No. 41
The People &c.,
Respondent,
v.
Joshue DeJesus,
Appellant.

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

1 No. 25
The People &c.,
Respondent,
v.
Benny Garay,
Appellant.

Order affirmed.
Opinion by Judge Abdus-Salaam.
Judges Read, Pigott and Rivera concur.
Chief Judge Lippman dissents in an opinion in which Judges Stein and Fahey concur.

1 No. 40
The People &c.,
 Respondent,
 v.
Richard Garcia,
 Appellant.

Order reversed and a new trial ordered.
Opinion by Judge Fahey.
Chief Judge Lippman and Judges Rivera, Abdus-Salaam and Stein concur.
Judge Pigott concurs in result in a separate opinion in which Judge Read concurs.

 No. 39
Ekaterina Schoenefeld,
 Respondent,
 v.
State of New York, et al.,
 Defendants,
Eric T. Schneiderman &c., et al.,
 Appellants.

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 record submitted, certified question answered in accordance with the opinion herein.
Opinion by Chief Judge Lippman.
Judges Read, Pigott, Rivera, Abdus-Salaam and Fahey concur.
Judge Stein took no part.

2 No. 43
The People &c.,
 Respondent,
 v.
Boris Shaulov,
 Appellant.

Order reversed and a new trial ordered.
Opinion by Judge Stein.
Chief Judge Lippman and Judges Read, Pigott, Rivera, Abdus-Salaam and Fahey concur.

2 No. 38
In the Matter of State Farm Mutual
Automobile Insurance Company,
 Appellant,
 v.
Patrick Fitzgerald,
 Respondent.

Reargument ordered and case set down for argument during a future session of this Court.
Chief Judge Lippman and Judges Read, Pigott, Abdus-Salaam, Stein and Fahey concur.
Judge Rivera took no part.

MOTIONS

1 Mo. No. 2015-124
In the Matter of Atlantic Outdoor Advertising,
Inc.,
 Appellant,
 v.
Meenakshi Srinivasan, &c., et al.,
 Respondents.

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

2 Mo. No. 2015-121
In the Matter of Stephen Auffredou,
 Appellant,
 v.
Board of Trustees of Village of Cornwall-on-
Hudson, et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2015-15
In the Matter of Isser B.

Administration for Children's Services,
 Respondent;
Abraham A. B.,
 Appellant;
et al.,
 Respondent.
(And Three Other Proceedings.)

Motion for leave to appeal denied.

4 Mo. No. 2015-120
In the Matter of Elijah Bell,
 Appellant,
 v.
Social Worker Johnson, et al.,
 Respondents.

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

3 Mo. No. 2015-89
In the Matter of Julio C. Borrell,
 Appellant,
 v.
New York State Division of Parole,
 Respondent.

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

4 Mo. No. 2014-1143
In the Matter of Charles B., &c.,
 Appellant,
 v.
State of New York, et al.,
 Respondents.

Motion for leave to appeal denied.
Judge Abdus-Salaam took no part.

1 Mo. No. 2015-113
The People &c.,
 Respondent,
 v.
Louis Burgos,
 Appellant.

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

2 Mo. No. 2015-82
Dagoberto Cabral,
 Respondent,
 v.
Luz Cabral,
 Appellant.

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

3 Mo. No. 2015-130
In the Matter of Debra A. Deshane et al.,
 Respondents,
 v.
Corey P. Deshane,
 Respondent,
Crystal A. Arquite,
 Appellant.

Motion for leave to appeal denied.

2 SSD 13
In the Matter of Michael O. F.

Administration for Children's Services,
 Respondent;
Fausat O.,
 Appellant.
(And Another Proceeding.)

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the orders appealed from do not finally determine the proceedings within the meaning of the Constitution.

3 Mo. No. 2015-123
Mark Fabiano et al.,
 Respondents,
 v.
State of New York,
 Appellant.

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.

2 Mo. No. 2015-135
Richard N. Golden,
 Respondent,
 v.
Bernadette M. Lynch,
 Appellant.

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

3 Mo. No. 2015-134
John Arthur Goodfriend,
 Appellant,
 v.
Village of Jeffersonville et al.,
 Respondents,
et al.,
 Defendants.

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

1 Mo. No. 2015-132
The People &c.,
 Respondent,
 v.
Mark Grassi,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2015-326
Greater New York Taxi Association, et al.,
 Appellants,
 v.
New York City Taxi and Limousine
Commission, &c., et al.,
 Respondents,
Nissan Taxi Marketing, N.A., LLC., et al.,
 Intervenors-Respondents.

Motion for a stay granted.

2 Mo. No. 2015-79
In the Matter of Shariff H. (Anonymous),
 Appellant.

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

4 Mo. No. 2015-73
In the Matter of Jeromy J. et al.

Erie County Department of Social Services,
 Respondent;
Latanya J.,
 Appellant,
et al.,
 Respondent.

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

2 Mo. No. 2015-136
In the Matter of Mohammed J. (Anonymous).

Administration for Children's Services,
 Respondent;
Mohammed Z. (Anonymous),
 Appellant.

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

1 Mo. No. 2015-44
The People &c.,
Respondent,
v.
Marcos Llibre,
Appellant.

Motion to dismiss appeal denied. A criminal leave application to the New York Court of Appeals is assigned to and decided by a single Judge of the Court (see CPL 460.20[4]; Rules of Ct of Appeals [22 NYCRR] § 500.20). While a motion to the full Court to dismiss the appeal may be made on the ground that there is no jurisdiction over the appeal, a motion may not be made, as it has been here, upon the ground that leave was improvidently granted. Such motion does not constitute a basis for the full Court to dismiss an appeal taken pursuant to leave of a single Judge of this Court.

1 Mo. No. 2015-81
MAFG Art Fund, LLC, et al.,
Appellants,
v.
Larry Gagosian, et al.,
Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2015-111
Board of Managers of Marbury Club
Condominium,
Respondent,
v.
Marbury Corners, LLC, et al.,
Appellants,
et al.,
Defendants.

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

3 SSD 10
Joseph Martens, &c., et al.,
Respondents,
v.
Frederick J. Neroni et al.,
Appellants.

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

4 Mo. No. 2015-33
Janice Mazella, &c.,
 Respondent,
 v.
William Beals, M.D.,
 Appellant,
et al.,
 Defendant.

Motion for leave to appeal granted.
Judge Fahey took no part.

2 Mo. No. 2015-99
In the Matter of Sylvia Morocho,
 Appellant,
 v.
Markos Jordan,
 Respondent.

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

3 Mo. No. 2015-24
New York State Workers' Compensation
Board,
 Respondent,
 v.
Bast Hatfield, Inc.,
 Appellant.

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

2 Mo. No. 2014-1244
In the Matter of Diana Oliver,
 Appellant,
 v.
Mark A. Gross, &c., et al.,
 Respondents.

Motion for leave to appeal granted.

2 SSD 12
In the Matter of Solomon R.
Michael R.,
 Respondent;
Usher P.,
 Nonparty-Appellant.

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

2 Mo. No. 2015-115
In the Matter of Ranco Sand and Stone Corp.,
Appellant,
v.
Patrick Vecchio, et al.,
Respondents.

Motion for leave to appeal granted.

2 Mo. No. 2015-97
In the Matter of Charles T. Rawley,
Respondent,
v.
Jessica Graham,
Appellant.

Motions 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.
Motions for poor person relief dismissed as academic.

2 Mo. No. 2015-144
In the Matter of Charles T. Rawley,
Respondent,
v.
Jessica Graham,
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.

 Mo. No. 2015-94
RCM Elmwood LLC, et al.,
Respondents,
v.
Carol Niznik,
Appellant.

On the Court's own motion, appeal dismissed, without costs, upon the ground that it does not lie (see NY Const, art VI, § 3[b]; CPLR 5601).
Motion for leave to appeal dismissed upon the ground that the Court of Appeals does not have jurisdiction to entertain it (see NY Const, art VI, § 3[b]; CPLR 5602).
Motion for a stay dismissed as academic.

2 Mo. No. 2015-84
Susan Stassa,
Respondent,
v.
George Stassa,
Appellant.

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.

2 Mo. No. 2015-129
In the Matter of Virginia Sturtevant,
Respondent,
v.
Jere Hochman, &c., et al.,
Appellants.

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

4 Mo. No. 2015-60
Sue/Perior Concrete & Paving, Inc.,
Respondent,
v.
Lewiston Golf Course Corporation,
Appellant,
et al.,
Defendants.

Motion for reargument denied with one hundred dollars costs and necessary reproduction disbursements.
Judges Stein and Fahey took no part.

4 Mo. No. 2015-107
Sue/Perior Concrete & Paving, Inc.,
Respondent,
v.
Lewiston Golf Course Corporation,
Appellant,
et al.,
Defendants.

Motion by the Seneca Nation of Indians for leave to appear amicus curiae on the motion for reargument herein granted and the brief is accepted as filed.
Judges Stein and Fahey took no part.

2 Mo. No. 2015-133
Robert Thomas,
Respondent,
v.
Rita Gray,
Appellant.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Motion for a stay dismissed as academic.

1 SSD 7
In the Matter of Ming Tung, et al.,
 Appellants,
 v.
China Buddhist Association, et al.,
 Respondents.

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

1 Mo. No. 2015-127
The People &c.,
 Respondent,
 v.
Henry William,
 Appellant.

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

1 Mo. No. 2015-117
The People &c.,
 Respondent,
 v.
Jorge Zepeda,
 Appellant.

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