

June 02, 2016

CASES

1 No. 75
CRP/Extell Parcel I, L.P.,
 Respondent,
 v.
Andrew M. Cuomo, &c., et al.,
 Respondents,
3to4, LLC, et al.,
 Appellants.

Order affirmed, with costs, and certified question answered in the affirmative, in a memorandum. Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.

1 No. 90
The People of the State of New York by Eric
T. Schneiderman, &c.,
 Respondent,
 v.
Maurice R. Greenberg, et al.,
 Appellants.

Order affirmed, with costs, and certified question answered in the affirmative.
Opinion by Judge Stein.
Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam and Fahey concur.
Judge Garcia took no part.

3 No. 81
The People &c.,
 Respondent,
 v.
Glenford C. Hull,
 Appellant.

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

1 No. 125 SSM 12
Dylan P., an Infant, by his Mother and Natural
Guardian, Raisa L., et al.,
 Respondents,
 v.
Webster Place Associates, L.P.,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative. Material questions of fact remain regarding whether defendant had constructive notice of a dangerous condition. Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.

1 No. 5
Red Zone LLC,
 Respondent,
 v.
Cadwalader, Wickersham & Taft LLP,
 Appellant.

Order modified, with costs, by denying plaintiff's motion for summary judgment and reinstating defendant's affirmative defenses of statute of limitations and comparative negligence and, as so modified, affirmed, in a memorandum. Judges Pigott, Rivera, Abdus-Salaam, Stein and Garcia concur. Chief Judge DiFiore and Judge Fahey took no part.

4 No. 69
The People &c.,
 Respondent,
 v.
Ronald D. Rossborough,
 Appellant.

Order affirmed.
Opinion by Judge Pigott.
Chief Judge DiFiore and Judges Rivera, Abdus-Salaam, Stein and Garcia concur.
Judge Fahey took no part.

MOTIONS

2 Mo. No. 2016-266
In the Matter of Chana J.A.,
 Respondent,
 v.
Barry S.,
 Appellant.
(And Another Proceeding.)

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that dismissed the appeal from the February 2014 Family Court order, dismissed upon the ground that such portion of the order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.
Motion for poor person relief dismissed as academic.

4 Mo. No. 2016-510
The People &c.,
 Respondent,
 v.
Kevin Allen,
 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.

1 Mo. No. 2016-443
In the Matter of Senator Tony Avella, et al.,
 Respondents,
 v.
City of New York, et al.,
 Respondents,
Queens Development Group, LLC, et al.,
 Appellants.

Motion for an order precluding the City of New York et al. from submitting a brief as respondents on the appeal &c. denied.

3 Mo. No. 2016-365
The People &c., ex rel. Shaliek Carter,
 Appellant,
 v.
Brandon J. Smith, &c.,
 Respondent.

Motion for reconsideration of this Court's February 23, 2016 dismissal order denied.

3 Mo. No. 2015-1335
In the Matter of Citizens for St. Patrick's et
al.,
Appellants,
v.
City of Watervliet Zoning Board of Appeals
et al.,
Respondents.

On the Court's own motion, appeal dismissed
without costs, upon the ground that the July 2015
Appellate Division order appealed from affirming
the July 2014 Supreme Court paper which, among
other things, granted PCP Watervliet, LLC's motion
pursuant to CPLR 6315 to ascertain damages and
ordered a hearing to determine damages, does not
finally determine the proceeding within the meaning
of the Constitution.

Motion for leave to appeal dismissed upon the
ground that the orders sought to be appealed from do
not finally determine the proceeding within the
meaning of the Constitution.

Judge Stein took no part.

4 Mo. No. 2016-384
In the Matter of Marivi DeJesus,
Respondent,
v.
Steven A. Gonzalez,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2016-593
In the Matter of Entergy Nuclear Operation,
Inc., et al.,
Respondents,
v.
New York State Department of State et al.,
Appellants.

Motion by African American Environmentalist
Association 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.

1 Mo. No. 2016-478
The People &c.,
 Respondent,
 v.
Roberto Estremera,
 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.

2 SSD 33
In the Matter of John J. Fabbriante,
 Appellant,
 v.
Donna Fabbriante,
 Respondent.

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

1 Mo. No. 2016-469
The People &c.,
 Appellant,
 v.
Keith Fagan,
 Respondent.

Motion for assignment of counsel granted and Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, NY 10005 assigned as counsel to the respondent on the appeal herein.

4 Mo. No. 2016-533
The People,
 Respondent,
 v.
Douglas Farmer,
 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.

3 Mo. No. 2016-316
In the Matter of Deborah Fatone,
 Respondent.
Addison Street Spa, LLC,
 Appellant.
Commissioner of Labor,
 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.

1 Mo. No. 2016-189
The People &c.,
Respondent,
v.
Donovan Ferguson,
Appellant.

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

1 Mo. No. 2016-38
In the Matter of Sandra D. Frelix (admitted as
Sandra Delores Frelix), an attorney and
counselor-at-law.

Departmental Disciplinary Committee for the
First Judicial Department,
Respondent,
Sandra D. Frelix,
Appellant.

On the Court's own motion, appeal dismissed
without costs, upon the ground that appellant has
failed to demonstrate timeliness as required by Rules
of the Court of Appeals (see 22 NYCRR 500.9,
500.10).
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]).

4 Mo. No. 2016-466
The People &c.,
Respondent,
v.
Lawrence P. Frumusa, &c.,
Appellant.

Motion for assignment of counsel granted and
Timothy P. Donaher, Esq., Monroe County Public
Defender, 10 N. Fitzhugh Street, Rochester, NY
14614 assigned as counsel to the appellant on the
appeal herein.

3 Mo. No. 2016-318
In the Matter of Reynald Gonzalez,
Respondent,
v.
Diane E. Hunter,
Appellant.
(And Two Other Proceedings.)

Motion, insofar as it seeks leave to appeal from that
portion of the Appellate Division order that affirmed
the Family Court order dismissing the violation
petition, dismissed upon the ground that such portion
of the order does not finally determine the
proceeding within the meaning of the Constitution;
motion for leave to appeal otherwise denied.

4 Mo. No. 2016-188
In the Matter of Aaliyah H.

Onondaga County Department of Social
Services,
Respondent;
Mary H.,
Respondent;
Isaiah H.,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2016-385
The People &c. ex rel. Bryant Jackson,
Appellant,
v.
Paul Chappius, &c., et al.,
Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2016-315
In the Matter of Louise M.L. (Anonymous).

Nassau County Department of Social
Services,
Respondent;
Melinda M.T. (Anonymous),
Appellant.

Motion for leave to appeal denied.

1 SSD 35
Carmelo Maisonet,
Plaintiff,
Miriam Cirera,
Appellant,
v.
Michael Roman, et al.,
Respondents.

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.

1 Mo. No. 2016-317
In the Matter of Justine N. et al., &c.

Patricia M.,
Appellant;
Administration for Children's Services,
Respondent.

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

2 Mo. No. 2016-20

Henry Nolasco,
Plaintiff,
v.
Soho Plaza Corp., et al.,
Defendants.

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.

Soho Plaza Corp., et al.,
Third-Party Appellants,

v.
Diamond Era Construction, Inc.,
Third-Party Defendant,
Jason Birnbaum, et al.,
Third-Party Respondents.

1 Mo. No. 2016-356
In the Matter of Julio O., et al., &c.

Moises O.,
Respondent,
Latishya H.,
Appellant,
Administration for Children's Services,
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.
Motion for poor person relief dismissed as academic.

1 Mo. No. 2016-237
In the Matter of Skylean A.P. et al., &c.

Jeremiah S.,
Appellant,
Administration for Children's Services,
Respondent,
et al.,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2016-479
The People &c.,
Respondent,
v.
Guy D. Pendleton,
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.

1 Mo. No. 2016-468
The People &c.,
Respondent,
v.
Jose Salgado,
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.

3 Mo. No. 2016-294
In the Matter of Terry Sanders,
Appellant,
v.
Anthony J. Annucci, &c.,
Respondent.

Motion for leave to appeal from the Appellate
Division order denying reconsideration &c.
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.

3 Mo. No. 2016-397
In the Matter of Terry Sanders,
 Appellant,
 v.
Anthony J. Annucci, &c.,
 Respondent.

Motion to vacate this Court's September 2, 2015
dismissal order denied.

2 Mo. No. 2016-182
Michael Santucci,
 Appellant,
 v.
Jeffrey Sousa, et al.,
 Respondents,
et al.,
 Defendant.

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

1 Mo. No. 2016-321
The People &c.,
 Respondent,
 v.
Tyrone Smith,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2016-281
Mark Squairs et al.,
 Appellants,
 v.
Safeco National Insurance Company, &c.,
 Respondent.

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

2 Mo. No. 2016-328
In the Matter of Christian Urena,
 Appellant,
 v.
Anthony Annucci, &c.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2016-319
Pedro Villamar,
Appellant,
v.
Angel Pacheco, et al.,
Respondents.

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

2 Mo. No. 2016-307
In the Matter of Jeremiah J.W.

Motion for leave to appeal dismissed as untimely (see CPLR 5513[b]; 2103[b][2])

Suffolk County Department of Social Services,
Respondent;
Tionna W.,
Appellant.

2 SSD 32
Taurus Whitehead,
Appellant,
v.
State of New York,
Respondent.

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. 2016-304
In the Matter of Steven Zobel,
Respondent,
v.
Chemung County et al.,
Appellants.
Workers' Compensation Board,
Respondent.

Motion for leave to appeal denied.