

March 23, 2017

**CASES**

1                    No. 73 SSM 6  
The People &c.,  
    Respondent,  
    v.  
Elmer Castillo,  
    Appellant.

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

1                    No. 74 SSM 7  
The People &c.,  
    Respondent,  
    v.  
Brian Degraffenreid,  
    Appellant.

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

1                    No. 71 SSM 3  
Kyreese L. Franklin,  
    Appellant,  
    v.  
Carmen Rosa Gareyua, et al.,  
    Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative. The Appellate Division correctly concluded that plaintiff failed to raise a triable issue of fact as to whether he suffered a serious left shoulder injury within the meaning of Insurance Law § 5102(d) as a result of the underlying motor vehicle accident. Chief Judge DiFiore and Judges Rivera, Abdus-Salaam, Stein, Fahey, Garcia and Wilson concur.

4                    No. 70 SSM 1  
The People &c.,  
    Respondent,  
    v.  
Darrion B. Freeman,  
    Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, defendant's plea vacated, that portion of his motion which requested suppression of tangible property and statements obtained following entry into defendant's residence granted, the first and second counts of the indictment dismissed, and case remitted to County Court, Monroe County, for further proceedings on the third count of the indictment, in a memorandum. Chief Judge DiFiore and Judges Rivera, Abdus-Salaam, Stein, Fahey, Garcia and Wilson concur.

2                    No. 72 SSM 5  
The People &c.,  
    Respondent,  
    v.  
Julio Peguero-Sanchez,  
    Appellant.

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

3                    No. 17  
The People &c.,  
    Appellant,  
    v.  
Matthew A. Slocum,  
    Respondent.

Appeal dismissed upon the ground that the reversal by the Appellate Division was not "on the law alone or upon the law and such facts which, but for the determination of law, would not have led to reversal" (CPL 450.90[2][a]), in a memorandum. Chief Judge DiFiore and Judges Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur. Judge Wilson took no part.

## MOTIONS

1                    Mo. No. 2017-268  
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 by Natural Resources Defense Council, 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.

2                    Mo. No. 2016-1119  
In the Matter of Nadjmaah S.B.  
  
Administration for Children's Services,  
    Respondent;  
Aleshia R.M.,  
    Appellant.

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

2                    Mo. No. 2017-114  
Beltway Capital, LLC,  
    Respondent,  
    v.  
Virginia Gutierrez et al.,  
    Defendants,  
James Bianco et al.,  
    Appellants.

Motion for reargument of motion for leave to appeal  
granted and, upon reargument, motion for leave to  
appeal denied.

1                    Mo. No. 2017-34  
Jeffrey Boolbol,  
    Appellant,  
    v.  
Paradigm Management Group, LLC, et al.,  
    Respondents,  
et al.,  
    Defendant.

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

3                    Mo. No. 2017-28  
In the Matter of Clifton Crawford,  
                          Appellant,  
                          v.  
New York State Board of Parole et al.,  
                          Respondents.

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

4                    Mo. No. 2017-69  
In the Matter of James R. Diegelman et al.,  
                          Appellants,  
                          v.  
City of Buffalo et al.,  
                          Respondents.

Motion for reargument denied with one hundred  
dollars costs and necessary reproduction  
disbursements.

1                    Mo. No. 2017-44  
In the Matter of Ibrahim Donmez,  
                          Appellant,  
                          v.  
New York City Department of Consumer  
Affairs, et al.,  
                          Respondents.  
(New York County Index No. 401769/13)

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

1                    Mo. No. 2017-45  
In the Matter of Ibrahim Donmez,  
                          Appellant,  
                          v.  
New York City Department of Consumer  
Affairs, et al.,  
                          Respondents.  
(New York County Index No. 401875/13)

Motion, insofar as it seeks leave to appeal from the  
Appellate Division order resolving the motion to  
enlarge the record, dismissed upon the ground that  
such 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.

2 Mo. No. 2017-315  
In the Matter of Lawrence Nkongho Etah, an  
attorney and counselor-at-law.

Grievance Committee for the Tenth Judicial  
District,  
Respondent;  
Lawrence Nkongho Etah,  
Appellant.

1 Mo. No. 2017-6  
In the Matter of Yasmine F., &c.

Junior F.,  
Appellant;  
Edwin Gould Services for Children,  
Respondent.

2 Mo. No. 2017-242  
In the Matter of Jesse Friedman,  
Appellant,  
v.  
Kathleen M. Rice, &c.,  
Respondent.

2 Mo. No. 2017-309  
The People &c.,  
Respondent,  
v.  
Kenyatta Garner,  
Appellant.

Motion for leave to appeal denied.  
Motion for a stay dismissed as academic.

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

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. Three copies of  
the brief must be served and an original and nine  
copies filed within seven days.  
Judge Wilson took no part.

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.  
Chief Judge DiFiore took no part.

4                    Mo. No. 2017-47  
In the Matter of Devin Gray,  
Appellant,  
v.  
Anthony Annucci, &c.,  
Respondent.

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

4                    Mo. No. 2017-32  
The People &c.,  
Respondent,  
v.  
Terri T. Havens,  
Appellant.

Motion for leave to appeal denied.

3                    Mo. No. 2017-24  
In the Matter of Jazmyne II., &c.  
  
Clinton County Department of Social  
Services,  
Respondent;  
Frank MM.,  
Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2017-42  
In the Matter of Monique Elizabeth J.,  
Respondent,  
v.  
Orlando D.,  
Appellant.

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

2                    Mo. No. 2017-310  
The People &c.,  
Respondent,  
v.  
Lanze R. Mason,  
Appellant.

On the Court's own motion, appeal dismissed upon  
the ground that the criminal prosecution abated by  
reason of defendant's death (see People v Ortiz, 77  
NY2d 821 [1990]).

SSD 11  
Mark Warren Moody,  
Appellant,  
v.  
New York State Board of Elections, et al.,  
Respondents.

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, First Department, upon the ground that the constitutional question presented on this direct appeal is not substantial (see Gerzof v Gulotta, 40 NY2d 825 [1976]).

1 Mo. No. 2017-258  
Morgan Stanley Mortgage Loan Trust 2006-13ARX, &c.,  
Respondent,  
v.  
Morgan Stanley Mortgage Capital Holdings LLC, &c.,  
Appellant.

Motion by James M. Peaslee for leave to file a letter brief amicus curiae on the appeal herein granted and the proposed letter brief is accepted as filed. Chief Judge DiFiore and Judge Garcia took no part.

1 Mo. No. 2017-259  
Morgan Stanley Mortgage Loan Trust 2006-13ARX, &c.,  
Respondent,  
v.  
Morgan Stanley Mortgage Capital Holdings LLC, &c.,  
Appellant.

Motion by Miriam A. Albert, et al. for leave to file a letter brief amici curiae on the appeal herein granted and the proposed letter brief is accepted as filed. One copy of the letter brief must be served and an original and three copies filed within seven days. Chief Judge DiFiore and Judge Garcia took no part.

1 Mo. No. 2017-260  
Morgan Stanley Mortgage Loan Trust 2006-13ARX, &c.,  
Respondent,  
v.  
Morgan Stanley Mortgage Capital Holdings LLC, &c.,  
Appellant.

Motion by Securities Industry and Financial Markets Association for leave to file a letter brief amicus curiae on the appeal herein granted and the proposed letter brief is accepted as filed. Chief Judge DiFiore and Judge Garcia took no part.

1 Mo. No. 2017-241  
Sara Myers et al.,  
Plaintiffs,  
Eric A. Seiff, et al.,  
Appellants,  
v.  
Eric Schneiderman, &c.,  
Respondent,  
et al.,  
Defendants.

Motion by New York Civil Liberties Union 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 and an original and nine copies filed within seven days. Chief Judge DiFiore took no part.

1 Mo. No. 2017-294  
Sara Myers et al.,  
Plaintiffs,  
Eric A. Seiff, et al.,  
Appellants,  
v.  
Eric Schneiderman, &c.,  
Respondent,  
et al.,  
Defendants.

Motion by Alan A. Pfeffer 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. Chief Judge DiFiore took no part.

2 Mo. No. 2017-63  
Louis Paar et al.,  
Appellants,  
v.  
Bay Crest Association, &c., et al.,  
Respondents.

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

4 Mo. No. 2017-59  
In the Matter of State of New York,  
Respondent,  
v.  
Scott P.,  
Appellant.

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



2                    Mo. No. 2017-35  
Dolores Parietti et al.,  
    Appellants,  
    v.  
Wal-Mart Stores, Inc. et al.,  
    Respondents,  
et al.,  
    Defendant.

Motion for leave to appeal granted.

3                    Mo. No. 2017-29  
In the Matter of Jermaine Safford,  
    Appellant,  
    v.  
Anthony J. Annucci, &c.,  
    Respondent.

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

4                    Mo. No. 2017-65  
In the Matter of Lundyn S.

Motion for leave to appeal denied.

Cayuga County Department of Health and  
Human Services,  
    Petitioner;  
Al-Rahim S.,  
    Respondent.

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In the Matter of Velvia S.,  
    Appellant,  
    v.  
Carrie L., et al.,  
    Respondents.

1                    Mo. No. 2017-318  
The People &c.,  
    Respondent,  
    v.  
Rolando Santi,  
    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. 2017-250  
The People &c.,  
Respondent,  
v.  
Robert C. St. Ives,  
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. 2017-10  
In the Matter of Joseph P. Sullivan,  
Appellant,  
v.  
Board of Zoning Appeals of City of Albany,  
et al.,  
Respondents.

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

4 Mo. No. 2017-3  
Zoltan Szalay et al.,  
Appellants,  
v.  
Town of Webster Police Department et al.,  
Respondents.

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

3 Mo. No. 2017-67  
In the Matter of Anthony Torres,  
Appellant,  
v.  
Anthony J. Annucci, &c.,  
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2017-61  
In the Matter of Dominique VV., et al., &c.

Delaware County Department of Social  
Services,  
Respondent;  
Kelly VV. et al.,  
Appellants.  
(And Another Related Proceeding.)

1 SSD 8  
In the Matter of Amy R. Weissbrod,  
Appellant,  
v.  
Jorge Dopico, Esq., et al.,  
Respondents.

SSD 9  
Amy Weissbrod Gurvey,  
Appellant,  
v.  
State of New York, et al.,  
Respondents.

4 Mo. No. 2017-276  
Eric White et al.,  
Appellants,  
v.  
Eric T. Schneiderman, &c. et al.,  
Respondents.

Motion for leave to appeal denied.

Appeal dismissed, without costs, by the Court sua sponte, upon the ground that it does not lie (see NY Const, art VI, § 3[b]; CPLR 5601).  
Chief Judge DiFiore and Judge Abdus-Salaam took no part.

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, First Department, upon the ground that a direct appeal does not lie when questions other than the constitutional validity of a statutory provision are involved (see NY Const, art VI, §§ 3[b][2], 5[b]; CPLR 5601[b][2]).  
Chief Judge DiFiore and Judge Abdus-Salaam took no part.

Motion by Seneca Nation of Indians for leave to appear amicus curiae on the motion for leave to appeal herein dismissed as untimely (see Rules of Ct of Appeals [22 NYCRR] § 500.23[a][3]).

1                    Mo. No. 2017-198  
Robert E. Wilson, III,  
                         Respondent,  
                         v.  
Daniel Valente Dantas, et al.  
                         Appellants,  
et al.,  
                         Defendants.

Motion, insofar as it seeks leave to file the motion submissions under seal, granted; motion, insofar as it seeks leave to expand the record, denied.

3                    Mo. No. 2016-1181  
In the Matter of Bin Yuan,  
                         Respondent.  
Legal Interpreting Services, Inc.,  
                         Appellant.  
Commissioner of Labor,  
                         Respondent.  
(And Three Other Proceedings.)

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