

October 12, 2017

CASES

2 No. 138 SSM 22

Barbara Burns, &c.,
Appellant,

v.

Sudhir Goyal, et al.,
Defendants,
Rakesh B. Patel, et al.,
Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order modified, with costs to plaintiff against defendants Rakesh B. Patel and Suffolk Heart Group, LLP and to defendants Michael Torelli and South Shore Family Practice Associates, P.C. against plaintiff, by denying the motion of defendants Rakesh B. Patel and Suffolk Heart Group, LLP for summary judgment and, as so modified, affirmed. On this record, triable questions of fact preclude summary judgment in favor of these defendants. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

1 No. 100

The People &c.,
Respondent,

v.

Ross Campbell,
Appellant.

Order affirmed, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

1 No. 99
Garthon Business Inc., et al.,
Respondents,

v.

Kirill Ace Stein, et al.,
Appellants.

Order, insofar as appealed from, reversed, with costs, and motions to compel arbitration granted, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

1 No. 137 SSM 16
Rosemarie A. Herman, &c., et al.,
 Respondents,
Avon Bard LLC, et al.,
 Plaintiffs,
 v.
Julian Maurice Herman, et al.,
 Appellants,
Michael Offit, et al.,
 Defendants.
(And a Third-Party Action.)

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative. Supreme Court did not abuse its discretion in precluding defendant Julian Maurice Herman from participating in the inquest to assess damages against him. Moreover, the denial of that defendant's cross motion was proper.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia and Wilson concur.
Judge Feinman took no part.

2 No. 83
The People &c.,
 Respondent,
 v.
Phillip Wright,
 Appellant.

Order reversed and a new trial ordered, in a memorandum.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

MOTIONS

1 SSD 49
State ex rel. Jerome A.,
Appellant,
v.
Joseph Ponte, &c., 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. 2017-624
All Craft Fabricators, Inc. et al.,
Appellants,
v.
Syska Hennessy Group, Inc.,
Respondent.

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

1 SSD 47
In the Matter of Alfonso Amelio,
Appellant,
v.
Douglas E. Hoffman, et al.,
Respondents.

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

2 Mo. No. 2017-747
The People &c.,
Respondent,
v.
Gary Anderson,
Appellant.

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

1 Mo. No. 2017-978
The People &c.,
Respondent,
v.
Ramel Bethea,
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.
Judge Feinman took no part.

3 SSD 52
Martha G. Cafferty, &c.,
 Appellant,
 v.
County of Broome 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. 2017-935
The People &c.,
 Respondent,
 v.
Ali Cisse,
 Appellant.

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 appellant on the appeal herein.

2 Mo. No. 2017-1005
Contact Chiropractic, P.C., as Assignee of
Girtha Butler,
 Respondent,
 v.
New York City Transit Authority,
 Appellant.

Motion by American Transit Insurance Company 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.

1 Mo. No. 2017-579
In the Matter of the Application for a
Protective Order, &c.,

Domenick Crispino, &c.,
 Appellant,
Attorney Grievance Committee,
 Respondent.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.
Judge Feinman took no part.

2 Mo. No. 2017-734
The People &c.,
 Respondent,
 v.
Brian Diaz,
 Appellant.

Motion for leave to appeal denied.
Chief Judge DiFiore took no part.

1 Mo. No. 2017-703
In the Matter of Gilberto Diaz,
 Appellant,
 v.
Arlene Goldberg, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2017-702
In the Matter of Falisha Fleisher,
 Respondent,
 v.
David B. Fleisher,
 Appellant.

Motion for leave to appeal denied.

 Mo. No. 2017-953
The People &c.,
 Respondent,
 v.
Mary Anne Grady Flores,
 Appellant.

Motion by Vera House, Inc. for leave to file a brief amicus curiae on the appeal herein granted and 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.

2 Mo. No. 2017-995
The People &c.,
 Appellant,
 v.
Alex Flores, Lucio Ramirez, Benigno Aguilar
and Emmanuel Flores,
 Respondents.

Motion for assignment of counsel granted and Leonard J. Levenson, Esq., 225 Broadway, Room 1804, New York, NY 10007 assigned as counsel to the respondents on the appeal herein.

1 Mo. No. 2017-987
In the Matter of The Friends of P.S. 163, Inc.,
et al.,
 Appellants,
 v.
Jewish Home Lifecare, Manhattan,
 Respondent,
New York State Department of Health, et al.,
 Respondents.

In the Matter of Daisy Wright, et al.,
 Appellants,
 v.
New York State Department of Health, et al.,
 Respondents,
Jewish Home Lifecare, Manhattan,
 Respondent.

1 Mo. No. 2017-996
In the Matter of The Friends of P.S. 163, Inc.,
et al.,
 Appellants,
 v.
Jewish Home Lifecare, Manhattan,
 Respondent,
New York State Department of Health, et al.,
 Respondents.

In the Matter of Daisy Wright, et al.,
 Appellants,
 v.
New York State Department of Health, et al.,
 Respondents,
Jewish Home Lifecare, Manhattan,
 Respondent.

Motion by The Real Estate Board of New York, Inc.
for leave to appear amicus curiae on the appeal
herein granted only to the extent that the proposed
brief is accepted as filed.

Motion by CaringKind, et al. for leave to file a brief
amici curiae on the appeal herein granted and the
proposed brief is accepted as filed.

1 Mo. No. 2017-1000
In the Matter of The Friends of P.S. 163, Inc.,
et al.,
 Appellants,
 v.
Jewish Home Lifecare, Manhattan,
 Respondent,
New York State Department of Health, et al.,
 Respondents.

In the Matter of Daisy Wright, et al.,
 Appellants,
 v.
New York State Department of Health, et al.,
 Respondents,
Jewish Home Lifecare, Manhattan,
 Respondent.

1 Mo. No. 2017-1001
In the Matter of The Friends of P.S. 163, Inc.,
et al.,
 Appellants,
 v.
Jewish Home Lifecare, Manhattan,
 Respondent,
New York State Department of Health, et al.,
 Respondents.

In the Matter of Daisy Wright, et al.,
 Appellants,
 v.
New York State Department of Health, et al.,
 Respondents,
Jewish Home Lifecare, Manhattan,
 Respondent.

Motion by Services & Advocacy for Gay, Lesbian,
Bisexual & Transgender Elders et al. for leave to file
a brief amici curiae on the appeal herein granted and
the proposed brief is accepted as filed.

Motion by City 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.

3 Mo. No. 2017-732
In the Matter of Tony Harrison,
 Appellant,
 v.
Donald Venettozzi, &c.,
 Respondent.

Motion for leave to appeal denied.

1 SSD 46
Neil Hutchins,
 Appellant,
 v.
Peter Hutchins et al.,
 Respondents,

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

4 Mo. No. 2017-956
In the Matter of Jamie J.

Wayne County Department of Social
Services,
 Respondent,

Michelle E.C.,
 Appellant.

Motion by Lawyers for Children, Inc. et al. for leave
to file a brief amici curiae on the appeal herein
granted and the proposed brief is accepted as filed.

1 Mo. No. 2017-964
The People &c.,
 Respondent,
 v.
Damian Jones,
 Appellant.

Motion for assignment of counsel granted and
Christina A. Swarns, Office of the Appellate
Defender, 11 Park Place, Suite 1601, New York, NY
10007 assigned as counsel to the appellant on the
appeal herein.

1 Mo. No. 2017-988
In the Matter of the People &c.,
 Appellant,
 v.
Conrado Juarez,
 Defendant.
Frances Robles,
 Nonparty Respondent.

Motion by Asian American Journalists Association, 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.

3 SSD 50
In the Matter of Leon R. Koziol, a Suspended Attorney.

Leon Koziol,
 Appellant;
Attorney Grievance Committee for the Third Judicial Department,
 Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the proceeding within the meaning of the Constitution.
Judges Stein and Fahey took no part.

1 Mo. No. 2017-708
In the Matter of Catherine M., &c.

Catherine L.,
 Appellant;
Administration for Children's Services,
 Respondent.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.
Motion for a stay dismissed as academic.
Judge Feinman took no part.

2 Mo. No. 2017-716
In the Matter of Jemima M.

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

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

3 Mo. No. 2017-695
In the Matter of Harold Marshall,
 Appellant,
 v.
Anthony J. Annucci, &c.,
 Respondent.

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

3 Mo. No. 2017-710
In the Matter of Michael Mays,
 Appellant,
 v.
Tina M. Stanford, &c.,
 Respondent.

Motion for leave to appeal denied.

4 SSD 51
In the Matter of Lionel McCray,
 Appellant,
 v.
Harold Graham, &c.,
 Respondent.

Appeal dismissed without costs, by the Court sua
sponte, upon the ground that the order appealed from
does not finally determine the proceeding within the
meaning of the Constitution.

4 SSD 48
In the Matter of Frederick McMillian,
 Appellant,
 v.
John B. Lempke, &c., et al.,
 Respondents.

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

4 Mo. No. 2017-970
The People &c.,
 Respondent,
 v.
Steven Myers,
 Appellant.

Motion for assignment of counsel granted and John
A. Cirando, Esq., c/o D.J. & J.A. Cirando, Esqs., 101
South Salina Street, Suite 1010, Syracuse, NY 13202
assigned as counsel to the appellant on the appeal
herein.

1 Mo. No. 2017-745
NRT New York, LLC, &c.,
 Plaintiff,
Charles Rutenberg, LLC,
 Respondent,
 v.
Christopher Morin et al.,
 Defendants.

Christopher Morin et al.,
 Third-Party Appellants,
 v.
Natalie Esposito,
 Third-Party Respondent.

3 Mo. No. 2017-736
In the Matter of Anthony Perez,
 Appellant,
 v.
William Keyser, &c.,
 Respondent.

1 Mo. No. 2017-740
Silvia Perina,
 Appellant,
 v.
Animal Care and Control of New York City,
Inc.,
 Respondent.

3 Mo. No. 2017-715
Lenora Pierce,
 Appellant,
 v.
Steven W. Hickey et al.,
 Respondents.

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

Motion for leave to appeal denied.

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

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.

1 Mo. No. 2017-829
In the Matter of Lukes Jacob R., &c.

Cynthia R.,
Appellant;
The Children's Aid Society,
Respondent.

Motion for reargument of motion for leave to appeal
denied.

Judge Feinman took no part.

2 Mo. No. 2017-719
Richmond Holdings, LLC et al.,
Appellants,

v.

David S. Frankel, P.C. et al.,
Respondents.

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

4 Mo. No. 2017-800
In the Matter of Charla Shonyo,
Respondent,

v.

Brian Shonyo,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2017-717
The People &c.,
Respondent,

v.

Carlos M. Villalona,
Appellant.

Motion for leave to appeal denied.
Chief Judge DiFiore took no part.