

June 12, 2018

CASES

1 No. 57
2138747 Ontario, Inc.,
 Appellant,
 v.
Samsung C&T Corporation, et al.,
 Respondents.

Stipulation appealed from, and Appellate Division order brought up for review, affirmed, with costs. Opinion by Judge Fahey. Chief Judge DiFiore and Judges Rivera, Stein, Wilson and Feinman concur. Judge Garcia took no part.

 No. 113
Moshe Marcel Ajdler,
 Appellant,
 v.
Province of Mendoza, a Province of the
Republic of Argentina,
 Respondent.

Certification of questions by the United States Court of Appeals for the Second Circuit, pursuant to section 500.27 of this Court's Rules of Practice, accepted and the issues presented are to be considered after briefing and argument. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

1 No. 56
Niurka Andino,
 Respondent-Appellant,
 v.
Ronald Mills, et al.,
 Appellants-Respondents.
(And a Third-Party Action.)

Judgment appealed from, and Appellate Division order brought up for review, modified, without costs, by remitting the case to Supreme Court, Bronx County, for further proceedings in accordance with the opinion herein and, as so modified, affirmed. Opinion by Judge Rivera. Chief Judge DiFiore and Judges Stein, Garcia and Feinman concur. Judge Wilson dissents in an opinion in which Judge Fahey concurs.

1 No. 109 SSM 10
Tara Keating Brooks, et al.,
 Appellants,
 v.
Robert S. April, M.D., et al.,
 Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, and order of Supreme Court, New York County, reinstated. Plaintiffs' submissions rebutted defendants' prima facie showing of entitlement to summary judgment and raised triable issues of fact (see Burns v Goyal, 30 NY3d 956 [2017]). On this record, triable issues of fact preclude summary judgment in favor of defendants.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

2 No. 60
The People &c.,
 Appellant,
 v.
Bryan Henry,
 Respondent.

Order reversed and case remitted to the Appellate Division, Second Department, for consideration of the facts (CPL 470.25[2][d]; 470.40[2][b]) and issues raised but not determined on appeal to that court.
Opinion by Judge Wilson.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia and Feinman concur.

1 No. 106 SSM 7
Deborah Keller-Goldman,
 Respondent,
 v.
Jacob Goldman,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs. Like the Appellate Division, and in light of the significant downward departure from the support contemplated under the Child Support Standards Act, we cannot say that Supreme Court erred when, prior to incorporating the parties' agreement into the judgment, it interpreted the disputed provision, in the context of the larger agreement and the parties' respective financial circumstances, in a manner that ensured adequate support to each unemancipated child, as the parties clearly intended (see Domestic Relations Law § 240[1-b][h]). Chief Judge DiFiore and Judges Rivera, Fahey, Wilson and Feinman concur. Judge Stein dissents in an opinion in which Judge Garcia concurs.

1 No. 40
The People &c. by Eric T. Schneiderman,
&c.,
 Respondent,
 v.
Credit Suisse Securities (USA) LLC, &c., et
al.,
 Appellants.

Order modified, without costs, by granting that branch of defendants' motion which was to dismiss the first cause of action in the complaint pursuant to CPLR 3211(a)(5) as time-barred and remitting the case to Supreme Court, New York County, for further proceedings in accordance with the opinion herein and, as so modified, affirmed and certified question answered in the negative. Opinion by Chief Judge DiFiore. Judges Stein, Fahey and Feinman concur, Judge Feinman in an opinion in which Judge Fahey concurs. Judge Rivera dissents in an opinion. Judges Garcia and Wilson took no part.

1 No. 61
The People &c.,
 Appellant,
 v.
Roque Silvagnoli,
 Respondent.

Order reversed and judgment of Supreme Court, New
York County, reinstated, in a memorandum.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Garcia, Wilson and Feinman concur.

MOTIONS

1 Mo. No. 2018-414
In the Matter of Jayden A. et al., &c.

Elisaul A.,
Appellant,
et al.,
Respondent;
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. 2017-859
All Children's Hospital, Inc.,

Appellant,
v.
Citigroup Global Markets, Inc.,
Respondent.

Motion for leave to appeal denied.

Judge Feinman took no part.

1 Mo. No. 2018-372
Danielle Biton, &c., et al.,

Appellants,
v.
State of New York, et al.,
Respondents.
(And Three Other Actions)

Motion, insofar as it seeks leave to appeal from the Court of Claims order denying the motion for renewal or reargument, dismissed upon the ground that this Court does not have jurisdiction to entertain it (see NY Const, art VI, § 3[b]; CPLR 5602[a]); motion for leave to appeal otherwise dismissed upon the ground that the Appellate Division orders sought to be appealed from do not finally determine the action within the meaning of the Constitution.

Motion for poor person relief dismissed as academic.
Judge Feinman took no part.

1 Mo. No. 2018-362
James H. Brady,
Appellant,
v.
New York County District Attorney's Office
et al.,
Respondents.

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

1 Mo. No. 2018-363
James H. Brady,
Appellant,
v.
State of New York, et al.,
Respondents.

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

1 Mo. No. 2018-343
The People &c.,
Respondent,
v.
Dwayne Buchanan,
Appellant.

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

2 Mo. No. 2018-369
The People &c. ex rel. Nora Carroll, &c.,
Appellant,
v.
Cynthia Brann, &c.,
Respondent.

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

2 Mo. No. 2018-316
Century Surety Company,
Appellant,
v.
All In One Roofing, LLC,
Defendant,
Zdeno Jadron, et al.,
Respondents.
(App. Div. No. 2014-01256)

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. 2018-317
Century Surety Company,
 Appellant,
 v.
All In One Roofing, LLC,
 Defendant,
Zdeno Jadron, et al.,
 Respondents.
(App. Div. Nos. 2015-12457, 2016-01297,
2016-01720)

Motion for leave to appeal denied.

1 Mo. No. 2018-344
Yessenia Damas,
 Respondent,
 v.
William J. Biggs,
 Appellant,
Netherland Gardens Corp.,
 Respondent,
et al.,
 Defendant.

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.

3 Mo. No. 2018-378
Clifton Davis,
 Appellant,
 v.
State of New York,
 Respondent.

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 poor person relief dismissed as academic.

1 Mo. No. 2018-483
In the Matter of the People &c. ex rel. Allen
Farbman,
 Appellant,
 v.
Dina Simon,
 Respondent.

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

2 Mo. No. 2018-322

The People &c.,
Respondent,
v.
Philip Hawthorne,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2018-408
In the Matter of Armoni M.K.I., &c., et al.

Jasmine M.W., &c.,
Appellant;
Commissioner of Administration for
Children's Services of the City of New York,
Respondent.

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

1 Mo. No. 2018-389
In the Matter of Eileen Jordan et al.,
Respondents,

v.
New York City Housing Authority,
Appellant,
Department of Citywide Administrative
Services,
Respondent.

Motion for leave to appeal granted.

1 Mo. No. 2018-468
In the Matter of Eileen Jordan et al.,
Respondents,

v.
New York City Housing Authority,
Appellant,
Department of Citywide Administrative
Services,
Respondent.

Motion by the City of New York for leave to appear
amicus curiae on the motion for leave to appeal
herein granted and the memorandum is accepted as
filed.

3 Mo. No. 2018-370
Christine Muller Kecec, &c.,
Respondent,
v.
Gina Robinson, &c.,
Appellant.

On the Court's own motion, appeal dismissed, without costs, upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution. 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. 2018-323
In the Matter of Christos Koutentis,
Appellant,
v.
NYC Police Department, Licensing Division,
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2018-336
In the Matter of the Estate of Robyn R. Lewis,
Deceased.

James Robert Simmons,
Respondent;
Meredith M. Stewart, et al.,
Appellants.

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

3 Mo. No. 2018-418
In the Matter of Darrin M. Lynk,
Respondent,
v.
Lisa M. Ehrenreich,
Appellant.
(And Another Related Proceeding)

Motion for leave to appeal denied.

1 Mo. No. 2018-422
In the Matter of Bilet M., et al., &c.

Luciano M.-R., &c.,
Appellant;
The New York Foundling Hospital,
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2018-439
In the Matter of Briana Elizabeth Mattice,
Respondent,
v.
Joseph M. Palmisano,
Appellant.
(And Another Proceeding)

Motion for leave to appeal denied.

2 Mo. No. 2018-386
The People &c.,
Respondent,
v.
Darrell McKinney,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2018-312
Christian Melendez,
Appellant,
v.
778 Park Avenue Building Corporation et al.,
Respondents.

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

2 Mo. No. 2018-384
Teddy Moore,
Appellant,
v.
Frank Guerra,
Defendant,
City of New York, et al.,
Respondents.

Motion for reargument of motion for leave to appeal denied.

3 Mo. No. 2018-381
In the Matter of Byoung Park,
Appellant,
v.
Corizon Health Inc. et al.,
Respondents.
Workers' Compensation Board,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2018-385
The People &c.,
Respondent,
v.
Julio Perdomo,
Appellant.

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

1 Mo. No. 2018-367
The People &c.,
Respondent,
v.
Robert Pollack,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2018-334
In the Matter of Walter J. Roache,
Appellant,
v.
Ann Marie T. Sullivan, &c.,
Respondent.

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.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2018-442
Scott Roberts,
Respondent,
v.
Lyubov A. Roberts,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2018-383
The People &c.,
Respondent,
v.
Joseph Rodriguez,
Appellant.

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

1 Mo. No. 2018-393
Agripino Polanco Rosa,
Appellant,
et al.,
Plaintiff,
v.
Rafael Delacruz et al.,
Respondents.

Motion for leave to appeal granted.

4 Mo. No. 2018-461
In the Matter of Michael S.

Onondaga County Department of Children
and Family Services,
Respondent;
Brittany R.,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2018-342
The People &c.,
Respondent,
v.
Alex Silvagnoli,
Appellant.

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

2 Mo. No. 2018-352
The People &c.,
Respondent,
v.
Jimmy Smith,
Appellant.

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

3 Mo. No. 2018-371
Gary Stone,
Appellant,
v.
Denise Donlon,
Respondent.

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.

4 Mo. No. 2018-457
In the Matter of Peter J. Unczur, Jr.,
Appellant,
v.
Debra A. Welch,
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2018-451
In the Matter of Joshua W., Jr.

Cattaraugus County Department of Social
Services,
 Respondent;
Joshua W., Sr.,
 Appellant.

3 Mo. No. 2018-359
In the Matter of Washington Square Hotel
LLC,
 Appellant,
 v.
Tax Appeals Tribunal of the State of New
York et al.,
 Respondents.

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

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

1 Mo. No. 2018-374
Amy Weissbrod Gurvey,
Appellant,
v.
State of New York, et al.,
Respondents.

On the Court's own motion, appeal, insofar as taken from those portions of the February 2018 Appellate Division order that dismissed the appeal from the January 2017 Supreme Court order and dismissed the appeal from that portion of the August 2016 Supreme Court order that (1) dismissed appellant's complaint against certain defendants, (2) imposed a future litigation injunction against appellant, and (3) denied appellant's motion to amend the complaint, dismissed, without costs, upon the ground that no substantial constitutional question is directly involved; appeal otherwise dismissed, without costs, upon the ground that it does not lie.

Motion, insofar as it seeks leave to appeal from those portions of the February 2018 Appellate Division order that dismissed the appeal from the January 2017 Supreme Court order and dismissed the appeal from that portion of the August 2016 Supreme Court order that (1) dismissed appellant's complaint against certain defendants, (2) imposed a future litigation injunction against appellant, and (3) denied appellant's motion to amend the complaint, denied; motion for leave to appeal otherwise dismissed upon the ground that it does not lie.

Chief Judge DiFiore took no part.

1 Mo. No. 2018-338
Howard Wexler,
Appellant,
v.
Ogden Cap Properties, LLC et al.,
Respondents.

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

2 Mo. No. 2018-368
The People &c.,
 Respondent,
 v.
Marlon Young,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2018-325
In the Matter of Christopher YY.,
 Appellant,
 v.
Jessica ZZ. et al.,
 Respondents.

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