

October 11, 2018

**CASES**

No. 142 SSM 22

The People &c.,  
Appellant,  
v.  
Marvin Drelich,  
Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, and case remitted to the Appellate Term, First Department, for consideration of issues raised but not determined on appeal to that court, in a memorandum.  
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

1 No. 143 SSM 21

Avraham Gold, et al.,  
Respondents,  
v.  
New York Life Insurance Co., et al.,  
Appellants.

On review of submissions pursuant to section 500.11 of the Rules, order, insofar as appealed from, reversed, without costs, and defendants' motion to compel plaintiff Melek Kartal to arbitrate granted. The parties now agree that the arbitration clauses in Kartal's agreements are enforceable (see Epic Sys. Corp. v Lewis, \_\_ US \_\_, 138 S Ct 1612 [2018]), and ask that we reverse.  
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

## MOTIONS

1                    Mo. No. 2018-681  
In the Matter of Jacob Alpert,  
                  Respondent,  
          v.  
M.R. Beal & Company,  
                  Respondent,  
Bernard M. Beal,  
                  Appellant.

Motion for leave to appeal denied.

                          Mo. No. 2018-943  
The People &c.,  
                  Respondent,  
          v.  
Robert Arida,  
                  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.

2                    Mo. No. 2018-715  
The People &c.,  
                  Respondent,  
          v.  
Michael Artis,  
                  Appellant.

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

1                    SSD 56  
In the Matter of Kimberly Austin, et al.,  
                  Appellants,  
          v.  
Maria Milin, &c.,  
                  Respondent,  
PS 157 Lofts LLC, 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. 2018-697  
Marco Battistella,  
Appellant,  
v.  
Marnie Ann Joyce,  
Respondent.  
(App. Div. Nos. 658-659)

On the Court's own motion, appeal from the March 2016 Appellate Division order dismissed, without costs, upon the ground that no substantial constitutional question is directly involved.  
Motion for poor person relief dismissed as academic.

1 Mo. No. 2018-826  
Marco Battistella,  
Appellant,  
v.  
Marnie Ann Joyce,  
Respondent.  
(App. Div. No. M-4566)

On the Court's own motion, appeal from the October 2017 Appellate Division order 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 poor person relief dismissed as academic.

2 Mo. No. 2018-688  
Deborah Bush,  
Appellant,  
v.  
Stevenson Commons Associates, LLP, Esqs.,  
Defendant;  
State of New York,  
Nonparty-Respondent.

Motion for leave to appeal dismissed as untimely (see CPLR 5513[b]; Eaton v State of New York, 76 NY2d 824 [1990])  
Motion for poor person relief &c. dismissed as academic.

4 Mo. No. 2018-712  
In the Matter of Joseph N. Capobianco,  
Appellant,  
v.  
Michelle A. Capobianco,  
Respondent.

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

3 Mo. No. 2018-709  
Robert Bruce Carroll,  
Appellant,  
v.  
Rondout Yacht Basin, Inc.,  
Respondent.

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.

3 Mo. No. 2018-729  
Mark Centi,  
Respondent,  
v.  
Michael McGillin,  
Appellant.

Motion to vacate this Court's July 2, 2018 dismissal order granted.

1 Mo. No. 2018-925  
Daniel Collazo, et al.,  
Appellants,  
v.  
Netherland Property Assets LLC et al.,  
Respondents.

Motion by Legal Services NYC, et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served, an original and nine copies filed, and the brief submitted in digital format within seven days.

3 Mo. No. 2018-655  
In the Matter of Maggie A. Davis,  
Appellant,  
v.  
Daniel E. Church II,  
Respondent.  
(And Another Proceeding)

Motion for leave to appeal denied.

1                   SSD 53  
The People &c.,  
    Respondent,  
    v.  
Jean Carlos DelaCruz,  
    Appellant.

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

                    SSD 54  
Delvern Duran,  
    Appellant,  
    v.  
County of Monroe,  
    Respondent,  
et al.,  
    Defendants.

Appeal transferred without costs, by the Court sua sponte, to the Appellate Division, Fourth 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]).

3                   Mo. No. 2018-975  
The People &c.,  
    Appellant,  
    v.  
Arthur W. Ellis Jr.,  
    Respondent.

Motion for assignment of counsel granted and Noreen McCarthy, Esq., P.O. Box 756, Keene Valley, NY 12943 assigned as counsel to the respondent on the appeal herein.

2                   Mo. No. 2018-700  
In the Matter of Dahlia-Gaye Fletcher,  
    Respondent,  
    v.  
Desford Saul,  
    Appellant.

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

2                   Mo. No. 2018-915  
The People &c.,  
    Respondent,  
    v.  
Elijah Foster-Bey,  
    Appellant.

Motion for assignment of counsel granted and Paul Skip Laisure, Esq., Appellate Advocates, 111 John Street, 9th Floor, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.

4 Mo. No. 2018-749  
In the Matter of Caiden G.

Onondaga County Department of Children  
and Family Services,  
Respondent;  
Walter G.,  
Appellant,  
et al.,  
Respondent.

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as dismissed the appeal from so much of the Family Court order as was entered on consent, dismissed upon the ground that, as to that portion of the Appellate Division order, appellant is not a party aggrieved (see CPLR 5511); motion for leave to appeal otherwise denied.  
Motion for poor person relief dismissed as academic.

4 Mo. No. 2018-662  
The People &c. ex rel. Darryl Grate,  
Appellant,  
v.  
Michelle Artus, &c. et al.,  
Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2018-670  
The People &c.,  
Respondent,  
v.  
Dwight Roger Graves, Jr.,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2018-642  
The People &c.,  
Respondent,  
v.  
Everton Haye,  
Appellant.

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

2 Mo. No. 2018-635  
In the Matter of Erwin Jackson,  
Appellant,  
v.  
Randy Sue Marber, &c., et al.,  
Respondents.

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

4 Mo. No. 2018-892  
The People &c.,  
Respondent,  
v.  
Jermaine A. James,  
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. 2018-569  
In the Matter of Letitia James, &c.,  
Appellant,  
et al.,  
Petitioners,  
v.  
City of New York et al.,  
Respondents,  
New York City Department of Education et  
al.,  
Respondents.

Motion for leave to appeal dismissed as untimely  
(see CPLR 5513[b], 2103[b][2]). The prior motion  
for leave to appeal made to the Appellate Division  
was untimely (see Arthur Karger, Powers of the New  
York Court of Appeals § 12:3 at 436-437 [3d ed rev  
2005]).

2 Mo. No. 2018-716  
The People &c.,  
Respondent,  
v.  
Stephen Joseph,  
Appellant.

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

2 Mo. No. 2018-657  
The People &c.,  
Respondent,  
v.  
Fransis Lima-Sanchez, &c.,  
Appellant.

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

4 Mo. No. 2018-724  
In the Matter of Caidence M., et al.

Seneca County Department of Human  
Services,  
Respondent;  
Francis W.M.,  
Appellant.

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

4 Mo. No. 2018-699  
In the Matter of Stacy Martinez,  
Respondent,

v.  
Jason M. McMasters,  
Appellant.

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

2 Mo. No. 2018-691  
The People &c. ex rel. Mark Marvin, &c.,  
Appellant,

v.  
Sheriff of Orange County,  
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.

4 Mo. No. 2018-932  
The People &c.,  
Respondent,

v.  
James R. McIntosh,  
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.

4 Mo. No. 2018-706  
The People &c. ex rel. Alex Nance,  
Appellant,

v.  
Dale Artus, &c.,  
Respondent.

Motion for leave to appeal denied.



3                    Mo. No. 2018-963  
In the Matter of Diane Neal,  
                    Respondent,  
                    v.  
Rima Liscum,  
                    Appellant,  
et al.,  
                    Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2018-847  
In the Matter of Mia V.O., &c.  
  
New York Foundling Hospital,  
                    Respondent;  
Dora O.,  
                    Appellant.

Motion for leave to appeal denied.

4                    Mo. No. 2018-731  
In the Matter of Baby Boy O.  
  
Brittney L.P. et al.,  
                    Respondents;  
Melody O.,  
                    Appellant;  
Adoption S.T.A.R. et al.,  
                    Respondents.

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

3                    Mo. No. 2018-971  
The People &c.,  
                    Respondent,  
                    v.  
Alexis Rodriguez,  
                    Appellant.

Motion for assignment of counsel granted and Paul J. Connolly, Esq., 2 Wedge Road, Delmar, NY 12054 assigned as counsel to the appellant on the appeal herein.

4 Mo. No. 2018-768  
In the Matter of Michael S. et al.

Chautauqua County Department of Health  
and Human Services,  
Respondent;  
Kathryne T.,  
Appellant,  
et al.,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2018-685  
The People &c.,  
Respondent,  
v.  
Sheldon Sealey,  
Appellant.

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

2 Mo. No. 2018-658  
The People &c.,  
Respondent,  
v.  
Clarence Sharrock,  
Appellant.

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

1 Mo. No. 2018-893  
The People &c.,  
Respondent,  
v.  
Cadman Williams,  
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. 2018-753  
In the Matter of Ellen A. Young,  
Respondent,  
v.  
Bryce J. Young,  
Appellant.

Motion for leave to appeal denied.