

State of New York
Court of Appeals

Decisions

April 1, 2021

CASES

1 No. 24

Michael Cutaia,
Respondent,

v.

The Board of Managers of the 160/170 Varick
Street Condominium, et al.,

Defendants,

The Rector, Church Wardens and Vestrymen
of Trinity Church in the City of New York, et
al.,

Appellants.

Michilli Construction, Inc. et al.,
Third-Party Appellants,

v.

A+ Installations Corp.
Third-Party Defendant.
(And Other Actions.)

Reargument ordered for a future Court session.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Garcia and Wilson concur.

No. 19

The People &c.,
Appellant,

v.

Daria N. Epakchi,
Respondent.

Order reversed and case remitted to the Appellate
Term for the Ninth and Tenth Judicial Districts for
consideration of issues raised but not determined on
the appeal to that Court.
Opinion by Chief Judge DiFiore.
Judges Rivera, Stein, Fahey and Garcia concur.
Judge Wilson dissents and votes to dismiss the appeal
in an opinion.

No. 20

The People &c.,
Respondent,

v.

Leslie K. Olds,
Appellant.

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

2 No. 22
The People &c.,
 Respondent,
 v.
Howard Powell,
 Appellant.

Reargument ordered for a future Court session.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Garcia and Wilson concur.

1 No. 18
Curby Toussaint,
 Respondent,
 v.
Port Authority of New York and New Jersey,
 Appellant,
et al.,
 Defendants.

Reargument ordered for a future Court session.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Garcia and Wilson concur.

3 No. 12
In the Matter of the Claim of Estate of
Norman Youngjohn,
 Appellant,
 v.
Berry Plastics Corporation
et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

Order affirmed, with costs.
Opinion by Judge Stein.
Chief Judge DiFiore and Judges Fahey, Garcia and
Wilson concur.
Judge Rivera concurs in result in an opinion.

MOTIONS

2 Mo. No. 2021-83
189 Schermerhorn Owners Company, LLC,
Appellant,
v.
Board of Managers of the Be@Schermerhorn
Condominium, et al.,
Respondents.

Motion, insofar as it seeks leave to appeal from the December 2020 Appellate Division order, dismissed upon the ground that such order does not finally determine the action within the meaning of the Constitution; motion, insofar as treated as also seeking leave to appeal (*see* CPLR 5512) from the September 2020 Appellate Division order, otherwise denied.

1 Mo. No. 2021-28
In the Matter of Emlie Anderson, &c.

Estate of Joan Anderson, &c., et al.,
Appellants,
v.
Sue Renee Bernstein, &c., et al.,
Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2021-18
The People &c.,
Respondent,
v.
Santos Antonetti,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2021-54
Susan Aranoff,
 Respondent,
 v.
Gerald Aranoff,
 Appellant.

Motion, insofar as it seeks leave to appeal from the June 25, 2014 Appellate Division order, dismissed upon the ground that it does not lie, appellant having previously moved in the Court of Appeals for leave to appeal (24 NY3d 934 [2014]) from the same Appellate Division order from which he currently seeks leave to appeal (*see Selinger v Selinger*, 90 NY2d 842 [1997]); motion otherwise dismissed upon the ground that the remaining 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.

2 Mo. No. 2021-75
The People &c.,
 Respondent,
 v.
Eric Barnes,
 Appellant.

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

1 Mo. No. 2021-68
In the Matter of Joanne Blasetti,
 Appellant,
 v.
Metropolitan Transportation Authority et al.,
 Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2021-29
In the Matter of Prasad Chalasani,
 Appellant,
 v.
MaryEllen Elia, &c., et al.,
 Respondents.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2020-940
Yasmin Colon, &c.,
Appellant,
v.
Compass Group USA, Inc.,
Respondent.

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

4 Mo. No. 2021-64
In the Matter of Rashod Coston,
Appellant,
v.
Stephen J. Dougherty, &c.,
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. 2020-939
Ruben De Lara Nunez,
Appellant,
v.
CCNY Construction, Inc., et al.,
Respondents,
et al.,
Defendants.
(And a Third-Party Action.)

Motion for leave to appeal denied.

2 Mo. No. 2021-33
The People &c.,
Respondent,
v.
Kareem Douglas,
Appellant.

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

4 Mo. No. 2021-21
In the Matter of Elderwood at Grand Island,
Appellant,
v.
Howard A. Zucker, &c. et al.,
Respondents.

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

4 Mo. No. 2021-185
In the Matter of Elderwood at Grand Island,
Appellant,
v.
Howard A. Zucker, &c. et al.,
Respondents.

Motion by New York State Health Care Facilities Association, Inc. for leave to appear amicus curiae on the motion for leave to appeal herein granted and the proposed brief is accepted as filed.

2 Mo. No. 2021-4
Federal National Mortgage Association,
Respondent,
v.
Nancy E. Nugent, &c.,
Appellant,
et al.,
Defendants;
Citimortgage, Inc.,
Nonparty-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.

2 Mo. No. 2020-956
Antoinette Gravagna,
Respondent,
v.
Joseph Gravagna,
Appellant.
(App. Div. No. 2018-02914)

Motion, insofar as it seeks leave to appeal from the Appellate Division order resolving the appeal in the first captioned action, dismissed upon the ground that such order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

In the Matter of Antoinette Gravagna,
Respondent,
v.
Joseph Gravagna,
Appellant.
(App. Div. No. 2018-02915)

1 Mo. No. 2021-35
International Asbestos Removal, Inc.,
Respondent,
v.
Beys Specialty, Inc. et al.,
Appellants.

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

2 Mo. No. 2021-26
Jane H. Concannon Revocable Trust,
Appellant,
v.
Building Department of the Town of East
Hampton, et al.,
Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2021-80
In the Matter of Rawl A. Jones,
Appellant,
v.
New York City Transit Authority,
Respondent.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2021-69
JPMorgan Chase Bank, National Association,
Respondent,
v.
Ross R. Caliguri, &c.,
Appellant.

Motion for reargument denied.

 Mo. No. 2021-34
Carlos Jule,
Appellant,
v.
Kiamesha Shores Property Owners
Association Inc., &c. et al.,
Respondents.

Motion for leave to appeal dismissed upon the ground that it does not lie (*see* CPLR 5602 [a]).

1 Mo. No. 2021-7
Haja Kamara, &c.,
Appellant,
v.
767 Fifth Partners, LLC,
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.

1 Mo. No. 2020-947
Lancer & Loader Group, LLC,
 Respondent,
 v.
American Tack & Hardware Co., Inc.,
 Appellant.

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

2 Mo. No. 2021-36
The People &c.,
 Respondent,
 v.
Reuben Lewis,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2021-2
In the Matter of Yu Chan Li,
 Appellant,
 v.
New York City Landmarks Preservation
Commission,
 Respondent.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2021-25
The People &c.,
 Respondent,
 v.
Allen Lin,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2021-66
The People &c.,
 Respondent,
 v.
Robert Lorca,
 Appellant.

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

1 Mo. No. 2020-950
M&E 73-75, LLC,
Appellant,
v.
57 Fusion LLC,
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.

2 Mo. No. 2021-98
Nella Manko,
Appellant,
v.
Lenox Hill Hospital,
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. Chief Judge DiFiore took no part.

2 Mo. No. 2021-72
The People &c.,
Respondent,
v.
William McDaniel,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2021-111
David James Murphy,
Appellant,
v.
Citigroup Global Markets, Inc., et al.,
Respondents.

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

1 Mo. No. 2020-953
Luke Nash,
Appellant,
v.
Martin Druyan,
Respondent.

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

4 Mo. No. 2021-8
In the Matter of the Application Under Article
7 of the Real Property Tax Law by NFR
Gateway, LLC (Nabisco),
 Respondent,
 v.
City of Niagara Falls, et al.,
 Appellants.
City School District of City of Niagara Falls,
 Intervenor-Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2021-43
OneWest Bank, F.S.B.,
 Respondent,
 v.
Lynn M. Mazzone, &c., et al.,
 Appellants,
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.

2 Mo. No. 2021-133
The People &c. ex rel. Angel Ortiz,
 Appellant,
 v.
Dennis Breslin, &c. et al.,
 Respondents.

Motion for reargument dismissed as untimely (*see*
Rules of Ct of Appeals [22 NYCRR] § 500.24 [b]).

2 Mo. No. 2021-93
The People &c.,
 Respondent,
 v.
Leroy Peoples,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2021-74
Logan Perez-Gurri,
Respondent,
v.
Craig Steffen,
Appellant,
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. 2021-24
In the Matter of Reclaim the Records et al.,
Appellants,
v.
New York State Department of Health,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2021-50
The People &c.,
Respondent,
v.
Ramses Reyes,
Appellant.

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

2 Mo. No. 2021-102
The People &c.,
Respondent,
v.
Martin Reyes,
Appellant.

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

1 Mo. No. 2021-11
The People &c.,
Respondent,
v.
Esteban Rivera,
Appellant.

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

2 Mo. No. 2021-44
The People &c.,
Respondent,
v.
Byron Rodas,
Appellant.

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

3 Mo. No. 2020-948
Stephen P. Romine,
Appellant,
v.
James P. Laurito et al.,
Respondents.

On the Court's own motion, appeal dismissed,
without costs, upon the ground that no substantial
constitutional question is directly involved.
Motion for leave to appeal denied.

2 Mo. No. 2021-3
In the Matter of Deborah Rothman, &c.
Arielle Weinberger Papadam et al.,
Appellants;
Ivan K. Rothman,
Respondent.

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

3 Mo. No. 2021-1
In the Matter of Gregg Trager,
Appellant,
v.
New York State Comptroller et al.,
Respondents.

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

4 Mo. No. 2021-17
The People &c.,
Respondent,
v.
Lawayne Turner,
Appellant.

Motion for leave to appeal denied.