

State of New York
Court of Appeals

Decisions

April 29, 2021

CASES

2 No. 47 SSM 7
Nadege Odena Jacob, &c.,
 Appellant,
 v.
Franklin Hospital Medical Center, et al.,
 Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order, insofar as appealed from, affirmed, with costs. In response to the prima facie showing of entitlement to summary judgment by defendants Franklin Hospital Medical Center, Abdul Majeed and AM Pulmonary Care, P.C., plaintiff failed to raise a triable issue of fact (*see Mazella v Beals*, 27 NY3d 694 [2016]; *Alvarez v Prospect Hosp.*, 68 NY2d 320, 324-325 [1986]). Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia and Wilson concur.

4 No. 48 SSM 6
Dawn Stefaniak,
 Plaintiff,
 v.
NFN Zulkharnain,
 Appellant.
Roberta L. Reedy, as Administrator of the
Estate of Kevin M. Reedy, Deceased,
 Respondent.

On review of submissions pursuant to section 500.11 of the Rules, February 2020 order of the Appellate Division insofar as appealed from and July 2014 order of the same court insofar as brought up for review, reversed, with costs, and motion for an award of attorney's fees against defendant denied. Under the circumstances here, the attorney's motion to be appointed, nunc pro tunc, pursuant to 22 NYCRR 36.2 (b) (2), should have been denied (*see generally Gletzer v Harris*, 12 NY3d 468, 476 [2009]). Chief Judge DiFiore and Judges Rivera, Stein, Garcia and Wilson concur.
Judge Fahey took no part.

MOTIONS

2 SSD 27

4ALEXF JY L.P.,
Respondent,

v.

Aziz Uddin Bilal, et al.,
Defendants,

Derrick M. Johnson,
Appellant.

Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that it does not lie (*see* CPLR 5601).

2 SSD 25

In the Matter of Thomas Adams,
Appellant,

v.

Deborah Adams,
Respondent.

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

4 Mo. No. 2021-40

Jo Alloway, et al.,
Appellants,

v.

Bowlmor AMF Corp., et al.,
Respondents,

et al.,
Defendants.

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

2 Mo. No. 2021-46

In the Matter of Toniann M. Amendola,
Appellant,

v.

Richard J. Maglione,
Respondent.

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

1 Mo. No. 2021-370
Aurora Associates LLC,
Respondent,
v.
Raffaello Locatelli,
Appellant,
Cleantech Strategies LLC, et al.,
Respondents.

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain this motion for leave to appeal from the order of the Appellate Division entered in this proceeding commenced in the Civil Court of the City of New York (*see* NY Const, art VI, § 3 [b] [7]; CPLR 5602 [a]).

1 Mo. No. 2021-73
In the Matter of Katharine B.,
Respondent,
v.
Thomas L.,
Appellant.

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.

2 Mo. No. 2020-910
In the Matter of John Borelli, et al.,
Appellants,
v.
City of Yonkers,
Respondent.

Motion for leave to appeal granted.

2 Mo. No. 2021-87
In the Matter of Cecile D.

Administration for Children's Services,
Respondent;
Kassia D.,
Appellant.
(And Another Proceeding.)

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

2 SSD 21
Michael A. Deem,
Appellant,
v.
Lorna M. DiMella-Deem,
Respondent.

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

2 SSD 24
The People &c.,
 Appellant,
 v.
Phylip Derival,
 Respondent.

Appeal dismissed, by the Court *sua sponte*, 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]).

4 SSD 22
In the Matter of Andrew DeWolf,
 Appellant,
 v.
Jamie Syrett, &c., et al.,
 Respondents.

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

 SSD 23
In the Matter of Andrew DeWolf,
 Appellant,
 v.
Wayne County, New York,
 Respondent.

On the Court's own motion, appeal transferred, without costs, 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]).

 Mo. No. 2021-300
The People &c.,
 Respondent,
 v.
Vladimir Duarte,
 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.

1 Mo. No. 2021-48
In the Matter of Anthony G.,
 Respondent,
 v.
Stephanie H.,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2020-833
Michael J. Garcia, &c.,
Respondent,
v.
Peter Garcia,
Appellant.
(And Another Action.)

Motion for leave to appeal denied.

1 Mo. No. 2021-273
The People &c.,
Respondent,
v.
Michael Hall,
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. 2021-268
The People &c.,
Respondent,
v.
Tyjhe Hargrove,
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.

2 Mo. No. 2021-89
In the Matter of Jahnya.

Cozbi C. et al.,
Respondents;
Camesha B.,
Appellant,
et al.,
Respondent.
(And Another Proceeding.)

Motion for leave to appeal denied.

3 Mo. No. 2021-361
In the Matter of the Claim of Thomas
Johnson,
 Appellant,
 v.
City of New York,
 Respondent.
Workers' Compensation Board,
 Respondent.

1 Mo. No. 2020-932
F.L.,
 Appellant,
 v.
J.M.,
 Respondent.

2 Mo. No. 2021-59
In the Matter of City of Long Beach,
 Respondent,
 v.
New York State Public Employment
Relations Board,
 Appellant,
Long Beach Professional Firefighters
Association, IAFF, Local 287,
 Appellant.

2 Mo. No. 2021-76
In the Matter of City of Long Beach,
 Respondent,
 v.
New York State Public Employment
Relations Board,
 Appellant,
Long Beach Professional Firefighters
Association, IAFF, Local 287,
 Appellant.

Motion by Injured Workers' Bar Association 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, nine
copies filed, and the brief submitted in digital format
within seven days.

Motion for leave to appeal denied.

Motions for leave to appeal granted.
Judge Fahey took no part.

Motion by New York State Professional Fire
Fighters Association for leave to appear amicus
curiae on the motion for leave to appeal by New
York State Public Employment Relations Board
herein granted and the memorandum of law is
accepted as filed.
Judge Fahey took no part.

2 Mo. No. 2021-207
In the Matter of Angelina M.

Debra Pagano Cohen,
Respondent;
Mark M.,
Appellant.

Motion for leave to appeal dismissed upon the
ground that the issues presented have become moot.

4 Mo. No. 2021-104
The People &c. ex rel. William McCoy,
Appellant,
v.
The People of the State of New York, et al.,
Respondents.

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

4 Mo. No. 2021-156
In the Matter of Anthony Papineau,
Respondent,
v.
Aimee Sanford,
Appellant.
(And Another Proceeding.)

Motion for leave to appeal denied.

1 Mo. No. 2021-47
In the Matter of Eushawn M.R.,
Appellant,
v.
Ayonna B.,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2021-140
In the Matter of Christie E.R.,
Appellant,
v.
Pedro J.D.,
Respondent.

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

1 Mo. No. 2020-888
In the Matter of Amir R. et al., &c.

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

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

2 Mo. No. 2021-100

The People &c.,
Appellant,
v.
Luis A. Rodriguez,
Respondent.

Motion to dismiss appeal denied.

4 Mo. No. 2020-951
In the Matter of Irelynn S.

Onondaga County Department of Children
and Family Services,
Respondent;
Maurice S.,
Appellant.

Motion for leave to appeal granted.
Motion for poor person relief granted.

2 SSD 19

Olabisi Salis,
Respondent,
v.
Owolabi Mohammed Salis,
Appellant.

Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that no appeal lies to this Court from the order of an individual Justice of the Appellate Division (*see* NY Const, art VI, § 3 [b]; CPLR 5601).

4 Mo. No. 2021-103
In the Matter of Stacy L. Sawyer,

Appellant,
v.
Matthew J. Doyle,
Respondent.

Motion for leave to appeal denied.

1 SSD 20
The Church of Jesus Christ of Latter-Day
Saints,
 Plaintiff,
Servant: Xiu Jian Sun, The Spiritual Adam,
 Appellant,
 v.
Northwell Health, et al.,
 Respondents.

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

 SSD 26
Trenton Business Assistance Corporation,
&c.,
 Appellant,
 v.
Maureen O'Connell, &c., et al.,
 Defendants,
Nonie Manion, &c. 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. 2021-56
U.S. Bank National Association, &c.,
 Respondent,
 v.
Pamela Donovan,
 Appellant,
et al.,
 Defendants.

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. 2021-82
In the Matter of Dakota W., et al., &c.

Broome County Department of Social
Services,
 Respondent;
Kimberly X.,
 Appellant,
et al.,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2021-113
In the Matter of James V. Williams,
 Appellant,
 v.
Krystal D. Richardson,
 Respondent.

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