

State of New York
Court of Appeals

Decisions

March 30, 2021

CASES

No. 11

CIT Bank N.A.,
Respondent,
v.
Pamela Schiffman, et al.,
Appellants,
et al.,
Defendants.

Following certification of questions by the United States Court of Appeals for the Second Circuit and acceptance of the questions by this Court pursuant to section 500.27 of this Court's Rules of Practice, and after hearing argument by counsel for the parties and consideration of the briefs and the record submitted, certified questions answered in accordance with the opinion herein.

Opinion by Chief Judge DiFiore.
Judges Rivera, Stein, Garcia and Wilson concur.
Judge Fahey concurs in an opinion, in which Judges Stein and Wilson concur.

4 No. 44 SSM 3

In the Matter of State of New York,
Appellant,
v.
Donald G.,
Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, without costs, and order of Supreme Court, Cayuga County, reinstated. Under these circumstances, Supreme Court did not abuse its discretion as a matter of law in ordering a new trial in the interest of justice on the ground of juror misconduct. Respondent's remaining contentions have been considered and are without merit. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia and Wilson concur.

3 No. 17

The People &c.,
Appellant,
v.
Nicole Hodgdon,
Respondent.

Order affirmed.
Opinion by Judge Garcia.
Judges Stein, Fahey and Wilson concur, Judge Stein in a concurring opinion.
Judge Rivera concurs in result in an opinion.
Chief Judge DiFiore took no part.

3 No. 16
The People &c.,
 Appellant,
 v.
Justin Hope,
 Respondent.

Order affirmed.
Opinion by Judge Garcia.
Judges Stein, Fahey and Wilson concur, Judge Stein
in a concurring opinion.
Judge Rivera concurs in result in an opinion.
Chief Judge DiFiore took no part.

3 No. 45 SSM 5
The People &c.,
 Respondent,
 v.
Alex Perez,
 Appellant.

On review of submissions pursuant to section 500.11
of the Rules, order affirmed, in a memorandum.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Garcia and Wilson concur.

3 No. 15
The People &c.,
 Appellant,
 v.
Marina Y. Viviani,
 Respondent.

Order affirmed.
Opinion by Judge Garcia.
Judges Stein, Fahey and Wilson concur, Judge Stein
in a concurring opinion.
Judge Rivera concurs in result in an opinion.
Chief Judge DiFiore took no part.

MOTIONS

1 Mo. No. 2021-91
In the Matter of A.M.A., et al., &c.

Anggeluz A.,
Appellant;
Administration for Children's Services,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2020-920
The People &c.,
Respondent,
v.
Todd Alvarez,
Appellant.

Motion for leave to appeal dismissed as untimely
(*see* CPLR 5513 [b]).

2 Mo. No. 2020-829
The People &c.,
Respondent,
v.
Dehaina Bailey,
Appellant.

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

1 Mo. No. 2020-924
The Bank of New York Mellon, &c.,
Respondent,
v.
Adam Plotch LLC,
Appellant,
et al.,
Defendants.

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

1 Mo. No. 2020-916
Bene LLC,
Appellant,
v.
New York SMSA Limited Partnership,
Respondent,
et al.,
Defendants.
Leslie J. Snyder, &c.,
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.

1 Mo. No. 2020-903
In the Matter of Brookdale Physicians'
Dialysis Associates, Inc., &c.,
Respondent,
et al.,
Petitioner,
v.
Department of Finance of the City of New
York,
Appellant.

Motion for leave to appeal granted.

3 Mo. No. 2020-907
In the Matter of Buffalo Teachers Federation,
Inc.,
Appellant,
v.
MaryEllen Elia, &c., et al.,
Respondents.

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

2 Mo. No. 2020-814
The People &c.,
Respondent,
v.
James G. Connolly,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2020-942
In the Matter of Council of the City of New
York, et al.,
Appellants,
v.
Department of City Planning of the City of
New York, et al.,
Respondents.
Two Bridges Associates, LP, et al.,
Intervenor-Respondents,

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

1 Mo. No. 2021-23
In the Matter of Council of the City of New
York, et al.,
Appellants,
v.
Department of City Planning of the City of
New York, et al.,
Respondents.
Two Bridges Associates, LP, et al.,
Intervenor-Respondents,

Motion by Municipal Art Society of New York for
leave to appear *amicus curiae* on the motion for
leave to appeal herein granted and the brief is
accepted as filed.

1 Mo. No. 2021-263
In the Matter of Council of the City of New
York, et al.,
Appellants,
v.
Department of City Planning of the City of
New York, et al.,
Respondents.
Two Bridges Associates, LP, et al.,
Intervenor-Respondents,

Motion by Vision Urbana, Inc. for leave to appear
amicus curiae on the motion for leave to appeal
herein granted and the brief is accepted as filed.

3 Mo. No. 2020-860
Pamela DeLap,
Appellant,
v.
Michaela M. Serseloudi et al.,
Defendants.
Jordan R. Pine,
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.

2 Mo. No. 2020-955
Deutsche Bank National Trust Company, &c.,
Respondent,
v.
Fern Ciruolo et al.,
Appellants,
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.

2 Mo. No. 2020-912
The People &c.,
Respondent,
v.
Rafael Disla,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2021-32
In the Matter of John L. Drake,
Respondent,
v.
Ann M. Drake,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2020-906
The People &c.,
Respondent,
v.
Gerdzer Edmee,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2020-930
Helen Gardner,
Appellant,
v.
New York Presbyterian Brooklyn Methodist
Hospital,
Respondent,
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.
Chief Judge DiFiore took no part.

3 Mo. No. 2020-927
In the Matter of the Claim of Jacqueline
Grabois,
 Respondent.
A Taylored Affair, LLC,
 Appellant.
Commissioner of Labor,
 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. 2020-917
Cy Greene,
 Appellant,
 v.
State of New York,
 Respondent.

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

4 Mo. No. 2020-716
In the Matter of Tomeka N.H.,
 Appellant,
 v.
Jesus R. et al.,
 Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2020-892
In the Matter of Robert Horvath,
 Appellant,
 v.
Susan Eagan, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2020-909
In the Matter of Kim A. Kirsch et al.,
 Respondents,
 v.
Board of Education of Williamsville Central
School District et al.,
 Appellants.

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. 2020-849
Aleks Y. Kovkov,
 Appellant,
 v.
Law Firm of Dayrel Sewell, PLLC, et al.,
 Respondents,
et al.,
 Defendants.

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

2 Mo. No. 2020-931
L & L Associates Holding Corp.,
 Respondent,
 v.
Seventh Day Church of God of the Apostolic Faith, et al.,
 Appellants,
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.
Motion for a stay dismissed as academic.

2 Mo. No. 2020-935
The People &c.,
 Respondent,
 v.
Jose Lucero,
 Appellant.

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

1 Mo. No. 2020-926
In the Matter of John Mooney,
 Petitioner,
Brian Burke,
 Appellant,
 v.
New York City Transit Authority, et al.,
 Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2020-925
In the Matter of the Claim of Bruce Muller,
 Claimant,
 v.
Square Deal Machining, Inc., et al.,
 Appellants.
Workers' Compensation Board,
 Respondent.

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

4 Mo. No. 2020-866
In the Matter of Kenneth J. Phelan,
 Appellant,
 v.
Anthony Annucci, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2020-875
Lioudmila Ponomareva, &c., et al.,
 Appellants,
 v.
1439 Realty, LLC, et al.,
 Respondents,
et al.,
 Defendant.
(And a Third-Party Action.)

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

2 Mo. No. 2020-820
Scott L. Rascelles,
 Appellant,
 v.
State of New York,
 Respondent.

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

2 Mo. No. 2020-879
Emma Riconda, &c.,
 Appellant,
 v.
Liberty Insurance Underwriters, Inc.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2021-12
The People &c.,
Appellant,
v.
Fernando Romualdo,
Respondent.

Motion to dismiss appeal denied.

1 SSD 14
The People &c.,
Respondent,
v.
Clefrantz Romulus,
Appellant.

Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that the two-Justice dissent at the Appellate Division is not on a question of law (*see* CPLR 5601 [a]).

3 Mo. No. 2020-840
In the Matter of the Claim of Deborah
Rzeznik,
Claimant,
v.
Town of Warwick et al.,
Appellants.
Workers' Compensation Board,
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.

4 Mo. No. 2020-893
In the Matter of Brian Seiler,
Appellant,
v.
John H. Crandall, &c., et al.,
Respondents.

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

2 Mo. No. 2020-933
Leigh Sharabani, &c.,
Appellant,
v.
Simon Property Group, Inc.,
Defendant,
MetaBank,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2020-874
The People &c.,
Respondent,
v.
Robert Smith,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2020-880
In the Matter of Andrew J. Spinnell, &c.

Motion for leave to appeal denied.

Attorney Grievance Committee for the First
Judicial Department,
Respondent;
Andrew J. Spinnell,
Appellant.

1 Mo. No. 2020-823
Robert Stec,
Appellant,
v.
Passport Brands, Inc., et al.,
Respondents.

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. 2020-937
The People &c.,
Respondent,
v.
Henry Wachtel,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2020-952
The People &c. ex rel. George Ward,
Appellant,
v.
Akinyemi Awopetu, &c.,
Respondent.

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

4 Mo. No. 2020-936
The People &c.,
Respondent,
v.
Ryan Werpechowski,
Appellant.

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

4 Mo. No. 2020-808
Calvin Williams,
Appellant,
v.
State of New York,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2021-13
In the Matter of Olga Young,
Respondent,
v.
Olexandr Young,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2021-158
Summer Zervos,
Respondent,
v.
Donald J. Trump,
Appellant.

Motion to dismiss appeal granted and appeal
dismissed, without costs, upon the ground that the
issues presented have become moot.