

State of New York
Court of Appeals

Decisions

June 14, 2022

CASES

No. 69

Lujerio Cordero,
Appellant,
v.
Transamerica Annuity Service Corporation,
&c.,
Respondent,
Transamerica Life Insurance Company,
Respondent,
et al.,
Third-Party Defendants-
Cross Defendants.

Certification of question by the United States Court of Appeals for the Eleventh 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, Garcia, Wilson, Singas, Cannataro and Troutman concur.

2 No. 64 SSM 6

The People &c.,
Respondent,
v.
Edmond Huertas,
Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge DiFiore and Judges Rivera, Garcia, Singas, Cannataro and Troutman concur. Judge Wilson dissents and votes to reverse and order a new trial, for reasons stated in the dissenting opinion of Justice Cheryl E. Chambers at the Appellate Division (186 AD3d 731, 734-740 [Chambers, J.P., dissenting]).

2 No. 67 SSM 10

The People &c.,
Respondent,
v.
Amin Laboriel,
Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge DiFiore and Judges Garcia, Singas, Cannataro and Troutman concur. Judge Rivera dissents in an opinion, in which Judge Wilson concurs.

1 No. 52
In the Matter of Nonhuman Rights Project,
Inc., &c.,
 Appellant,
 v.
James J. Breheny, &c., et al.,
 Respondents.

Order affirmed, without costs.
Opinion by Chief Judge DiFiore.
Judges Garcia, Singas, Cannataro and Troutman
concur.
Judge Wilson dissents in an opinion, in which Judge
Rivera concurs in part in a separate dissenting
opinion.

4 No. 65 SSM 7
The People &c.,
 Respondent,
 v.
Kysean Stroud,
 Appellant.

On review of submissions pursuant to section 500.11
of the Rules, order affirmed, in a memorandum.
Chief Judge DiFiore and Judges Rivera, Garcia,
Wilson, Singas and Cannataro concur.
Judge Troutman took no part.

2 No. 53
In the Matter of Talbot V.,
 Appellant;
Kingsboro Psychiatric Center,
 Respondent.

Order insofar as appealed from affirmed, without
costs, in a memorandum.
Chief Judge DiFiore and Judges Rivera, Garcia,
Wilson, Singas, Cannataro and Troutman concur.

MOTIONS

1 Mo. No. 2022-160
Chijioke Ajoku,
 Appellant,
 v.
New York State Office of Temporary and
Disability Assistance, et al.,
 Respondents.

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

4 Mo. No. 2022-111
Ronald Bradley, &c.,
 Respondent,
 v.
New Penn Financial, LLC, &c.,
 Appellant.

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

1 Mo. No. 2022-361
In the Matter of Lania C., et al., &c.

Latoya C.,
 Appellant;
Children's Aid Society,
 Respondent.

Motion for leave to appeal denied.

1 SSD 15
Patricia Catania,
 Appellant,
 v.
Mercedes Liriano, et al.,
 Defendants,
William Woodruff, 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.

2 Mo. No. 2022-377
The People &c.,
Respondent,
v.
Sulamaan A. Coleman,
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. 2022-151
The People &c.,
Respondent,
v.
Felix Correa,
Appellant.

Motion for leave to appeal denied.

4 SSD 19
In the Matter of Bernice Curry-Malcolm,
Appellant,
v.
New York State Division of Human Rights et
al.,
Respondents.

Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that no appeal lies as of right from the unanimous judgment of the Appellate Division absent the direct involvement of a substantial constitutional question (*see* CPLR 5601). Judge Troutman took no part.

4 SSD 20
In the Matter of Bernice Curry-Malcolm,
Appellant,
v.
New York State Teachers' Retirement
System, et al.,
Respondents.

Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that no appeal lies as of right from the unanimous orders of the Appellate Division absent the direct involvement of a substantial constitutional question (*see* CPLR 5601). Judge Troutman took no part.

2 Mo. No. 2022-398
The People &c.,
Respondent,
v.
Jonathan Elwell,
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. 2022-444
Excel Sports Management, LLC,
Respondent,
v.
Eric Eways 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 action within the meaning of the Constitution.
Motion for a stay dismissed as academic.

4 Mo. No. 2022-312
In the Matter of Ariana F.F. et al.

Livingston County Department of Social Services,
Respondent;
Robert E.F., Sr.,
Appellant,
Tara M.L.,
Appellant.

Motions for leave to appeal denied.
Motion for poor person relief by appellant Tara M.L. dismissed as academic.

2 Mo. No. 2022-38
Federal National Mortgage Association, &c.,
Appellant,
v.
Francis M. Sajdak, &c.,
Respondent,
et al.,
Defendants.

Motion, insofar as it seeks reargument of the motion for leave to appeal from the March 2021 Appellate Division order, denied; motion, insofar as it seeks leave to appeal from the July 2021 Supreme Court order and judgment, dismissed as untimely (*see* CPLR 5513 [b]).
Judge Troutman took no part.

3 Mo. No. 2022-318
The People &c. ex rel. Juan Feliz,
Appellant,
v.
Brandon J. Smith, &c., et al.,
Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2022-169
The People &c. ex rel. Shane Ferro, on behalf
of Maximo Burdier,
 Respondent,
 v.
Cynthia Brann, &c.,
 Appellant.

Motion for leave to appeal denied.

2 SSD 18
In the Matter of Ivan Gordon,
 Appellant,
 v.
Bopha Ngoun,
 Respondent.

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

1 Mo. No. 2022-367
Lukasz Gottwald, &c., et al.,
 Respondents,
 v.
Kesha Rose Sebert, &c.,
 Appellant,
et al.,
 Defendants.

Motion by National Women's Law Center, et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed. The brief must be submitted in digital format within seven days.

3 Mo. No. 2022-120
Gulf Coast Bank & Trust Co., &c.,
 Respondent,
 v.
Virgil Resort Funding Group, Inc., et al.,
 Defendants,
Kevin Walsh,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2022-274
Gulf Coast Bank & Trust Co., &c.,
Respondent,

v.

Virgil Resort Funding Group, Inc., et al.,
Defendants,
Kevin Walsh,
Appellant.

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

4 Mo. No. 2022-242
In the Matter of Scott C. Hagadone,
Respondent,

v.

Cassandra L. Cansdale,
Appellant.

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

2 Mo. No. 2022-267
In the Matter of Shenese Jones,
Respondent,

v.

Russell Spain,
Appellant.

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

3 SSD 23
The People &c. ex rel. Michael N. Kelsey,
Appellant,

v.

Donna Lewin, &c.,
Respondent.

Appeal dismissed without costs, by the Court *sua sponte*, on the ground that the relator has been released and, therefore, his liberty is no longer restrained to such a degree as to entitle him to the extraordinary writ of habeas corpus (*see* CPLR 7002 [a]; *see also* *People ex rel. Wilder v Markley*, 26 NY2d 648 [1970]).

2 SSD 17
Nella Manko,
 Appellant,
 v.
David A. Gabay, et al.,
 Respondents,
et al.,
 Defendants.
(Index No. 22148/2013)

Nella Manko,
 Appellant,
 v.
David A. Gabay, &c., et al.,
 Respondents.
(Index No. 22148/2013)

2 Mo. No. 2022-148
Adina N. Mardenborough,
 Respondent,
 v.
U.S. Bank National Association, &c.,
 Appellant.

4 Mo. No. 2022-152
In the Matter of Marc A. Mario,
 Appellant,
 v.
New York State Division of Human Rights et
al.,
 Respondents.

3 Mo. No. 2022-132
The People &c.,
 Respondent,
 v.
Isaac McKay,
 Appellant.

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.
Chief Judge DiFiore took no part.

Motion for leave to appeal denied.

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

Motion for leave to appeal denied.

1 Mo. No. 2022-223
The People &c. ex rel. Danielle Muscatello,
&c.,
 Appellant,
 v.
Joseph Fucito, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2022-290
In the Matter of Nathan N., et al.

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

Livingston County Department of Social
Services,
 Respondent;
Christopher R.N.,
 Respondent,
Melissa J.N.,
 Appellant.

4 Mo. No. 2022-342
In the Matter of Nathan N., et al.

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

Livingston County Department of Social
Services,
 Respondent;
Christopher R.N.,
 Appellant,
Melissa J.N.,
 Respondent.

3 SSD 22
In the Matter of Corey O.,
 Respondent,
 v.
Angela P.,
 Appellant.
(And Four Other Proceedings.)

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]).

1 Mo. No. 2022-317
In the Matter of Isiah M.D.O., &c.

Good Shepherd Services,
Respondent;
Yael M.D.O.,
Appellant.

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

3 Mo. No. 2022-75
In the Matter of PSC, LLC,
Appellant,
v.
City of Albany Industrial Development
Agency, et al.,
Respondents.

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

3 Mo. No. 2022-229
In the Matter of Farideh P.,
Respondent,
v.
Ahmed Q.,
Appellant.

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

4 Mo. No. 2022-353
In the Matter of Juliette R.

Erie County Department of Social Services,
Respondent;
Jordan R.T.,
Appellant.

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

1 SSD 21
R.F. Schiffmann Associates, Inc. et al.,
Appellants,
v.
Baker & Daniels LLP,
Respondent,
et al.,
Defendant.

Appeal dismissed without costs, by the Court *sua
sponte*, upon the ground that it does not lie (*see* NY
Const, art VI, § 3 [b]; CPLR 5601).

1 Mo. No. 2022-144
Nanda Richards, et al.,
 Appellants,
et al.,
 Plaintiffs,
 v.
Ford Motor Company,
 Respondent,
et al.,
 Defendants.

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

4 Mo. No. 2022-142
Karen L. Ryan,
 Respondent,
 v.
John B. Ryan,
 Appellant.

Motion, insofar as appellant seeks leave to appeal from so much of the Appellate Division order as affirmed so much of the Supreme Court order as denied that portion of his motion as sought to terminate the spousal maintenance award, dismissed upon the ground that such portion of the order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

4 Mo. No. 2022-108
In the Matter of Grayson R.V.

Motion for leave to appeal denied.

Erie County Department of Social Services,
 Respondent;
Jessica D.,
 Appellant,
et al.,
 Respondents.

4 Mo. No. 2022-170
In the Matter of Grayson R.V.

Motion for leave to appeal denied.

Erie County Department of Social Services,
 Respondent;
Kimberly K.,
 Appellant,
et al.,
 Respondents.

4 Mo. No. 2022-414
In the Matter of Grayson R.V.

Motion for leave to appeal denied.

Erie County Department of Social Services,
Respondent;
Raymond J.,
Appellant,
et al.,
Respondents.

3 Mo. No. 2022-292
In the Matter of David VV.,
Appellant,
v.
Alison YY.,
Respondent.
(And Another Proceeding.)

Motion for leave to appeal denied.

3 Mo. No. 2022-176
In the Matter of James WW.,
Appellant,
v.
State of New York,
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2022-250
In the Matter of Daniel P. Yount, II,
Respondent,
v.
Sarah A. Yount,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2022-141
In the Matter of Amanda YY.,
Respondent,
v.
Faisal ZZ.,
Appellant.
(And Another Proceeding.)

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