

State of New York
Court of Appeals

Decisions

April 23, 2024

CASES

3 No. 31
In the Matter of Aaron Manor Rehabilitation
and Nursing Center, LLC, et al.,
 Respondents-Appellants,
 v.
Howard A. Zucker, &c., et al.,
 Appellants-Respondents.

Order modified, with costs to
defendants/respondents, in accordance with the
opinion herein and, as so modified, affirmed.
Opinion by Judge Rivera.
Chief Judge Wilson and Judges Garcia, Singas,
Cannataro, Troutman and Halligan concur.

1 No. 42
The People &c.,
 Appellant,
 v.
Corey Dunton,
 Respondent.

Order reversed and case remitted to the Appellate
Division, First Department, for consideration of
issues raised but not determined by that Court.
Opinion by Judge Rivera.
Chief Judge Wilson and Judges Singas, Cannataro,
Troutman and Bannister concur.
Judge Aarons dissents in an opinion.
Judges Garcia and Halligan took no part.

3 No. 41
The People &c.,
 Respondent,
 v.
Kenneth E. Fisher,
 Appellant.

Order reversed and a new trial ordered.
Opinion by Chief Judge Wilson.
Judges Rivera, Garcia, Singas, Cannataro, Troutman
and Halligan concur.

3 No. 35
In the Matter of International Business
Machines Corporation & Combined
Affiliates,
 Appellant,
 v.
Tax Appeals Tribunal of the State of New
York et al.,
 Respondents.

Judgment affirmed, with costs.
Opinion by Judge Cannataro.
Judges Rivera, Garcia, Singas and Troutman concur.
Chief Judge Wilson concurs in result in an opinion,
in which Judge Halligan concurs.

4 No. 23
The People &c.,
 Respondent,
 v.
Farod Mosley,
 Appellant.

Order reversed and a new trial ordered.
Opinion by Judge Halligan.
Chief Judge Wilson and Judges Garcia, Singas,
Cannataro and Barros concur.
Judge Rivera concurs in result in an opinion.
Judge Troutman took no part.

3 No. 34
In the Matter of Walt Disney Company and
Consolidated Subsidiaries,
 Appellant,
 v.
Tax Appeals Tribunal of the State of New
York et al.,
 Respondents.

Judgment affirmed, with costs.
Opinion by Judge Cannataro.
Judges Rivera, Garcia, Singas and Troutman concur.
Chief Judge Wilson concurs in result in an opinion,
in which Judge Halligan concurs.

1 No. 38
The People &c.,
 Respondent,
 v.
David Williams,
 Appellant.

Order reversed and a new trial ordered, to be
preceded by an independent source hearing.
Opinion by Judge Troutman.
Chief Judge Wilson and Judges Rivera, Garcia,
Singas, Cannataro and Halligan concur.

MOTIONS

1 Mo. No. 2023-746
111 West 57th Investment LLC, et al.,
 Appellants,
 v.
111 W57 Mezz Investment LLC, et al.,
 Defendants,
ACREFI Mortgage Lending, LLC, et al.,
 Respondents,
et al.,
 Defendants.

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

2 Mo. No. 2023-627
In the Matter of 22-50 Jackson Avenue
Associates, L.P.,
 Appellant,
 v.
County of Suffolk, et al.,
 Respondents.

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

1 Mo. No. 2024-15
In the Matter of Joshua A.,
 Appellant,
 v.
Shaquanda T.,
 Respondent.

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

3 Mo. No. 2023-599
In the Matter of Arnot Ogden Medical Center,
et al.,
 Appellants,
 v.
New York State Department of Health, et al.,
 Respondents.

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

2 Mo. No. 2023-837
Bank of America, N.A., &c.,
 Respondent,
 v.
Fedie R. Redd,
 Appellant.

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. Motion for a stay dismissed as academic.

1 Mo. No. 2023-303
Emigrant Bank et al.,
 Appellants,
 v.
Virgo Investment Group LLC, et al.,
 Respondents.

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

4 Mo. No. 2023-832
The People &c. ex rel. Rashad Farmer,
 Appellant,
 v.
Anthony J. Annucci, &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.

4 Mo. No. 2023-739
Tina Knapp,
 Plaintiff,
Michael Knapp,
 Appellant,
 v.
Finger Lakes NY, Inc., &c.,
et al.,
 Respondents.

Motion for leave to appeal denied. Judge Troutman took no part.

1 Mo. No. 2023-681
In the Matter of LL 410 East 78th Street LLC,
 Appellant,
 v.
Division of Housing and Community
Renewal,
 Respondent.

Motion for leave to appeal granted.

3 Mo. No. 2023-666
The People &c. ex rel. William Lotze, on
behalf of Nekie Ricks,
 Appellant,
 v.
Anthony Annucci, &c.,
 Respondent,
et al.,
 Respondent.

Motion for leave to appeal dismissed upon 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]).
Motion for poor person relief dismissed as academic.

3 Mo. No. 2023-824
In the Matter of the Claim of Theresa
Polonski,
 Respondent,
 v.
Town of Islip,
 Appellant.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2023-796
Derek S. Prindle,
 Respondent,
 v.
John Guzy,
 Appellant.

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.

4 Mo. No. 2024-73
In the Matter of Victoria A. Pritty-Pitcher,
 Respondent,
 v.
Delbert A. Hargis, Jr.,
 Appellant,
Nicole E. Hargis,
 Respondent.
(App. Div. No. CAF 22-01496)

In the Matter of Victoria A. Pritty-Pitcher,
 Respondent,
 v.
Delbert A. Hargis, Jr.,
 Appellant,
Nicole E. Hargis,
 Respondent.
(App. Div. No. CAF 22-01497)

3 Mo. No. 2023-829
In the Matter of Walter Q.,
 Appellant,
 v.
Stephanie R.,
 Respondent.

1 Mo. No. 2023-774
The People &c.,
 Respondent,
 v.
Deshon Rochford,
 Appellant.

3 Mo. No. 2023-842
In the Matter of Ronald C. Rose,
 Appellant,
 v.
Lynda Lewandowski,
 Respondent.

Motion, insofar as it seeks leave to appeal from the Appellate Division order that affirmed Family Court's order finding appellant in contempt, dismissed upon the ground that the order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.
Judge Troutman took no part.

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 leave to appeal denied.

Motion for leave to appeal denied.

4 Mo. No. 2023-680
Arthur Samodovitz,
Appellant,
v.
United Health Services Hospitals, Inc., et al.,
Respondents.
(And Another Action.)

Motion for leave to appeal denied.

2 Mo. No. 2023-745
The People &c.,
Respondent,
v.
Cyril Saul,
Appellant.

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

1 Mo. No. 2023-771
Benjamin Shabtai,
Respondent,
v.
HFZ Capital Group, LLC, et al.,
Defendants,
HFZ Shore Club LLC, et al.,
Appellants.

Motion for leave to appeal denied.

1 Mo. No. 2023-718
In the Matter of Janine Shank,
Appellant,
v.
Dermot F. Shea, &c. et al.,
Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2023-760
In the Matter of Jeffrey Terborg,
 Appellant,
 v.
New York State Department of Corrections
and Community Supervision,
 Respondent.

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as dismissed the appeal from the judgment, denied; motion for leave to appeal otherwise dismissed upon the ground that the remaining portions of the Appellate Division order do not finally determine the proceeding within the meaning of the Constitution.
Motion for ancillary relief dismissed upon the ground that this Court does not have jurisdiction to entertain it (*see* NY Const, art VI, § 3).

1 Mo. No. 2023-555
Mary L. Trump,
 Appellant,
 v.
Donald J. Trump, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2023-800
David J. Whelan,
 Appellant,
 v.
Cristina Cuomo,
 Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that no appeal lies as of right from the unanimous order of the Appellate Division absent the direct involvement of a substantial constitutional question (*see* CPLR 5601). Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1 Mo. No. 2023-790
The People &c.,
 Respondent,
 v.
Collins Williams,
 Appellant.

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