

July 1, 2015

CASES

No. 113

The People &c.,
Respondent,

v.

Curtis Basile,
Appellant.

Order affirmed, in a memorandum.
Chief Judge Lippman and Judges Read, Pigott,
Rivera, Abdus-Salaam, Stein and Fahey concur.

No. 115

Robert R. Burton et al.,
Appellants,

v.

New York State Department of Taxation and
Finance et al.,
Respondents.

Order and judgment affirmed, with costs.
Opinion by Judge Rivera.
Chief Judge Lippman and Judges Read, Pigott,
Abdus-Salaam, Stein and Fahey concur.

1 No. 116

Philip Caprio, et al.,
Respondents,

v.

New York State Department of Taxation and
Finance, et al.,
Appellants,
Andrew M. Cuomo, &c.,
Defendant.

Order reversed, with costs, appellants' motion for
summary judgment granted, judgment granted
declaring that the retroactive application as to
plaintiffs of the 2010 amendment to Tax Law §
632(a)(2) is valid under the Due Process Clauses of
the United States and New York Constitutions, and
certified question answered in the negative.
Opinion by Judge Stein.
Chief Judge Lippman and Judges Read, Pigott,
Rivera, Abdus-Salaam and Fahey concur.

2 No. 108
In the Matter of Greater Jamaica Development
Corporation, et al.,
 Respondents,
 v.
New York City Tax Commission,
et al.,
 Appellants.

Order reversed, with costs, and matter remitted to the
Appellate Division, Second Department, for
consideration of the issues raised but not determined
on the appeal to that court.
Opinion by Judge Pigott.
Chief Judge Lippman and Judges Rivera, Abdus-
Salaam and Fahey concur.
Judge Read dissents in an opinion in which Judge
Stein concurs.

1 No. 112
JF Capital Advisors, LLC,
 Appellant,
 v.
The Lightstone Group, LLC, et al.,
 Respondents.

Order modified, without costs, by denying
defendants' motion to dismiss the amended complaint
in part in accordance with the opinion herein, and, as
so modified, affirmed and certified question not
answered as unnecessary.
Opinion by Judge Fahey.
Chief Judge Lippman and Judges Read, Pigott,
Rivera, Abdus-Salaam and Stein concur.

4 No. 109
The People &c.,
 Respondent,
 v.
Howard S. Wright,
 Appellant.

Order reversed and a new trial ordered.
Opinion by Judge Rivera.
Chief Judge Lippman and Judges Read, Abdus-
Salaam and Stein concur.
Judge Pigott dissents in an opinion.
Judge Fahey took no part.

2 No. 119
In the Matter of State Farm Mutual
Automobile Insurance Company,
 Appellant,
 v.
Patrick Fitzgerald,
 Respondent.

Order reversed, with costs, and petition for a
permanent stay of arbitration granted.
Opinion by Judge Abdus-Salaam.
Judges Read, Stein and Gonzalez concur.
Judge Pigott dissents and votes to affirm in an
opinion in which Chief Judge Lippman and Judge
Fahey concur.
Judge Rivera took no part.

MOTIONS

2 Mo. No. 2015-607
In the Matter of Lucinda A. (Anonymous).

Administration for Children's Services,
Respondent;
Luba A. (Anonymous),
Appellant.
(And Another Proceeding.)

Motion for reargument of motion for leave to appeal denied.

3 Mo. No. 2015-593

Taliv Ali,
Appellant,
v.
State of New York,
Respondent.

Motion for reargument denied.

1 Mo. No. 2015-589

In the Matter of James Amoroso,
Appellant,
v.
Hon. Norma Ruiz, &c., et al.,
Respondents.

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

2 Mo. No. 2015-643

The People &c.,
Respondent,
v.
Michael Blaylock,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2015-606
The People &c. ex rel. James Boutte,
Appellant,
v.
Kathleen G. Gerbing, &c.,
Respondent.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2015-656
The People &c.,
Respondent,
v.
Jason Callendar,
Appellant.

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

1 Mo. No. 2015-622
Julie Conason, et al.,
Respondents,
v.
Megan Holding, LLC, et al.,
Appellants.

Motion for reargument denied.
Judges Stein and Fahey took no part.

1 Mo. No. 2015-612
Vincent M. Cracolici, et al.,
Appellants,
v.
Simon Barkagan, M.D., et al.,
Respondents.

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

3 Mo. No. 2015-647
In the Matter of Cody D., &c.

St. Lawrence County Department of Social
Services,
Respondent;
Brittiany F.,
Appellant.
(And Another Related Proceeding.)

Motion for leave to appeal denied.

2 Mo. No. 2015-613
Esther Dayan,
Respondent,
v.
Abraham Dayan,
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.

2 Mo. No. 2015-662
The People &c.,
Respondent,
v.
Jose DeJesus,
Appellant.

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

2 Mo. No. 2015-568
In the Matter of Rachel Gillison,
Respondent,
v.
Ricky Gillison,
Appellant.

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

1 Mo. No. 2015-600
The People &c.,
Respondent,
v.
Cory Goodwin,
Appellant.

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

4 Mo. No. 2015-646
In the Matter of Shawn Green,
Appellant,
v.
Harold D. Graham, &c.,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2015-577
Salvatore Guerrera,
Respondent,
v.
Robert J. Zysk,
Appellant.

Motion for leave to appeal dismissed upon the ground that the orders sought to be appealed from do not finally determine the action within the meaning of the Constitution.
Motion for a stay dismissed as academic.

4 Mo. No. 2015-596
Ralph Guerrucci, &c.,
Respondents,
v.
School District of City of Niagara Falls,
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.
Judge Fahey took no part.

3 Mo. No. 2015-641
In the Matter of Terri A. Jablonski,
Appellant.
Commissioner of Labor,
Respondent.

Motion for reconsideration of this Court's May 5, 2015 dismissal order denied.

2 Mo. No. 2015-640
In the Matter of the State of New York,
Respondent,
v.
Wayne J. (Anonymous),
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2015-582
In the Matter of Aleria KK., et al., &c.

Albany County Department for Children,
Youth and Families,
Respondent;
Ralph MM.,
Appellant.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from, affirming the fact-finding order, does not finally determine the proceeding within the meaning of the Constitution.

2 Mo. No. 2015-651
The People &c.,
Respondent,
v.
Robert L. Liguori,
Appellant.

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

1 Mo. No. 2015-623
Efren Meralla,
Respondent,
v.
Stephen M. Goldenberg,
Appellant,
Philip L. Weinstein, et al.,
Respondents.
(And a Third-Party Action.)

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

2 Mo. No. 2015-595
Diane Montagnino, et al.,
Appellants,
v.
Inamed Corporation, et al.,
Defendants,
Alan R. Shons, &c.,
Respondent.

Motion, insofar as it seeks leave to appeal from the Appellate Division order denying reargument or leave to appeal to this Court, 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.

2 Mo. No. 2015-654
The People &c.,
Respondent,
v.
Rodney Morrison,
Appellant.

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

4 Mo. No. 2015-573

Marc A. Nicometi,
Appellant-Respondent,
v.
The Vineyards of Fredonia, LLC, et al.,
Respondents-Appellants,
et al.,
Defendants.

Scott Pfohl, et al.,
Third-Party Plaintiffs,
v.

Western New York Plumbing-Ellicott
Plumbing and Remodeling Co., Inc.,
Third-Party Respondent-Appellant.

Motion for reargument denied.
Judge Fahey took no part.

2 Mo. No. 2015-594

Russell Pinto, et al.,
Appellants,
v.
Moshe Tenenbaum, et al.,
Respondents.

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

2 Mo. No. 2015-587

The People &c. ex rel. Walter J. Roache,
Appellant,
v.
Maureen Bosco, &c.,
Respondent.

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

1 Mo. No. 2015-586

In the Matter of Social Service Employees
Union, Local 371, on behalf of its member
Matthew Opuoru,
Appellant,
v.
City of New York, et al.,
Respondents.

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

1 Mo. No. 2015-676
The South Tower Residential Board of
Managers of Time Warner Center
Condominium,
 Respondent,
 v.
The Ann Holdings, LLC, &c.,
 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.

2 Mo. No. 2015-575
In the Matter of Christine Stevenson,
 Respondent,
 v.
Augusto Blanco,
 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.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2015-569
The People &c.,
 Respondent,
 v.
Irving Stewart,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2015-611
Robert Thomas,
 Respondent,
 v.
Rita Gray,
 Appellant.

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

4 Mo. No. 2015-644
The People &c.,
 Respondent,
 v.
Alan D. Tidd, Sr.,
 Appellant.

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

3 Mo. No. 2015-584
In the Matter of Isabella TT., &c.

Dalton C. et al.,
Appellants;
Brandon A. et al.,
Respondents.
Friends in Adoption, Inc.,
Appellant.
(And Another Proceeding.)

Motion for leave to appeal denied.

3 Mo. No. 2015-751
In the Matter of Isabella TT., &c.

Dalton C. et al.,
Appellants;
Brandon A. et al.,
Respondents.
Friends in Adoption, Inc.,
Appellant.
(And Another Proceeding.)

Motion by American Academy of Adoption Attorneys et al. for leave to appear amici curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.

3 Mo. No. 2015-580
In the Matter of Jose Vargas,
Appellant,
v.
Brian Fischer, &c.,
Respondent.

Motion for leave to appeal dismissed as untimely (see CPLR 5513[b]; Eaton v State of New York, 76 NY2d 824 [1990]).
Judge Stein took no part.

4 Mo. No. 2015-602
The People &c.,
Respondent,
v,
Aaron Voymas,
Appellant.

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

2 Mo. No. 2015-576
Abdullah Wilson, &c.,
 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. 2015-615
The People &c.,
 Respondent,
 v.
Steven Wise,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2015-621
In the Matter of Liz WW.,
 Respondent,
 v.
Shakeria XX.,
 Respondent,
Alvin YY.,
 Appellant.
(And Other Related Proceedings.)

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the proceedings within the meaning of the Constitution.