

May 03, 2016

CASES

No. 48
Beck Chevrolet Co., Inc.,
Appellant,
v.
General Motors LLC,
Respondent.

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 the Rules of Practice of the New York State Court of Appeals, and after hearing argument by counsel for the parties and consideration of the briefs and the record submitted, first certified question answered in accordance with the opinion herein and second certified question answered in the negative.

Opinion by Judge Rivera.

Chief Judge DiFiore and Judges Abdus-Salaam, Stein and Fahey concur.

Judge Pigott dissents in part in an opinion.

Judge Garcia took no part.

1 No. 1
Mary Finerty &c.,
Respondents,
v.
Abex Corporation, Formerly Known as
American Brake Shoe Company, et al.,
Defendants,
Ford Motor Company,
Appellant.
(And Another Action.)

Order insofar as appealed from reversed, with costs, defendant Ford Motor Company's motion for summary judgment dismissing the complaint against it granted and certified question answered in the negative.

Opinion by Judge Pigott.

Chief Judge DiFiore and Judges Abdus-Salaam, Stein, Fahey and Garcia concur.

Judge Rivera took no part.

No. 124

Flo & Eddie, Inc., a California Corporation,
individually and on behalf of all others
similarly situated,

Respondent,

v.

Sirius XM Radio, Inc., a Delaware
Corporation,

Appellant,

Does, 1 through 10,
Defendants.

Certification of question by the United States Court
of Appeals for the Second 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 Pigott, Rivera,
Abdus-Salaam, Stein, Fahey and Garcia concur.

4 No. 65

The People &c.,

Respondent,

v.

Quanaparker Howard,
Appellant.

Order affirmed, without costs.

Opinion by Chief Judge DiFiore.

Judges Pigott, Abdus-Salaam, Stein, Fahey and
Garcia concur.

Judge Rivera dissents in an opinion.

1 No. 67

The People &c.,

Respondent,

v.

Joel Joseph,
Appellant.

Order affirmed, in a memorandum.

Chief Judge DiFiore and Judges Pigott, Rivera,
Abdus-Salaam, Stein, Fahey and Garcia concur.

4 No. 62

The People &c.,

Respondent,

v.

Tyrone D. Manor,
Appellant.

Order affirmed, in a memorandum.

Chief Judge DiFiore and Judges Pigott, Rivera,
Abdus-Salaam, Stein and Garcia concur.

Judge Fahey took no part.

1 No. 99

The People &c.,

Respondent,

v.

Elliot Parrilla,
Appellant.

Order affirmed.

Opinion by Judge Garcia.

Chief Judge DiFiore and Judges Pigott, Rivera,
Abdus-Salaam, Stein and Fahey concur.

No. 59

In the Matter of Viking Pump, Inc. and
Warren Pumps, LLC,
Insurance Appeals.

Viking Pump, Inc. and Warren Pumps, LLC,
Appellants,
TIG Insurance Company, et al.,
Respondents.

Following certification of questions by the Supreme Court of Delaware and acceptance of the questions by this Court pursuant to section 500.27 of the Rules of Practice of the New York State Court of Appeals, 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 Judge Stein.

Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam and Fahey concur.

Judge Garcia took no part.

MOTIONS

3 Mo. No. 2016-253
In the Matter of Justin A. et al., &c.

Madison County Department of Social
Services,
 Respondent;
Derek C.,
 Appellant.
(And Another Proceeding.)

Motion for leave to appeal denied.

2 Mo. No. 2016-256
The People &c. ex rel. Angel Alvarez,
 Appellant,
 v.
Warden, R.N.D.C., Riker's Island,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2016-222
BAC Home Loans Servicing, LP, &c.,
 Respondent,
 v.
Barbara Bixby,
 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.

2 Mo. No. 2016-218
Joseph Bennett, &c.,
 Appellant,
et al.,
 Plaintiff,
 v.
Michael Hucke, et al.,
 Defendants,
Alan Kirk, et al.,
 Respondents.

Motion for leave to appeal granted.

1 Mo. No. 2016-245
The People &c.,
 Respondent,
 v.
Michael Colon,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2016-239
James C. Davis,
 Appellant,
 v.
CEC, Inc., et al.,
 Defendants,
Dennis M. Noonan,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2016-254
Douglas Elliman, LLC, &c.,
 Appellant,
 v.
Rhona Silver, 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.

3 Mo. No. 2016-185
Zaytune Doviak, &c.,
 Appellant,
 v.
Lowe's Home Centers, Inc., et al.,
 Defendants.
Finkelstein & Partners, LLP, et al.,
 Respondents.
(And Two Third-Party Actions.)

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

2 Mo. No. 2016-236
Lesley Drazek,
 Appellant,
 v.
Vital Transportation, Inc.,
 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. 2016-223
In the Matter of EDJ Realty, LLC,
 Appellant,
 v.
Darryl C. Towns, &c., et al.,
 Respondents.

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

1 Mo. No. 2016-259
The People &c.,
 Respondent,
 v.
Kent Edwards,
 Appellant.

Motion for leave to appeal denied.

 Mo. No. 2016-120
In the Matter of Duane FF., &c.

Clinton County Department of Social
Services,
 Respondent;
Harley GG.,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2016-238
In the Matter of Sylvia Golub, deceased.

Norman Golub,
 Respondent;
J. David Golub,
 Appellant.
(And Another Matter.)

Motion for reconsideration of this Court's January 7, 2016 dismissal orders denied.
Motion for leave to appeal dismissed upon the ground that the Court lacks jurisdiction to entertain the motion (see NY Const, art VI, § 3; CPLR 5602).
Motion for a stay dismissed as academic.
Chief Judge DiFiore and Judge Garcia took no part.

2 Mo. No. 2016-23
The People &c.,
 Respondent,
 v.
Tameeka Gordon,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2016-252
The People &c.,
 Respondent,
 v.
Lawrence Iacono,
 Appellant.

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

3 SSD 30
In the Matter of Dwight James,
 Appellant,
 v.
New York State Board of Parole,
 Respondent.

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

4 Mo. No. 2016-220
In the Matter of Vladimir Jeanty,
 Appellant,
 v.
Honorable Barry M. Donalty, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2016-390
In the Matter of Vladimir Jeanty,
 Appellant,
 v.
Honorable Barry M. Donalty, &c., et al.,
 Respondents.

Motion to seal dismissed as unnecessary (see Rules
of Ct of Appeals [22 NYCRR] 500.5[b]).

2 Mo. No. 2016-228
The People &c.,
 Respondent,
 v.
William Jordan,
 Appellant.

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

1 Mo. No. 2016-215
In the Matter of J. Bruce Llewellyn, &c.,
deceased.

Motion for leave to appeal denied.

Donald McHenry, et al.,
 Respondents,
 v.
Jaylaan Ahmad-Llewellyn,
 Appellant.

3 Mo. No. 2016-251
In the Matter of Jeffrey F. Martin,
 Respondent,
 v.
Lisa A. Wood,
 Appellant.
(And Another Proceeding.)

Motion for leave to appeal denied.

1 Mo. No. 2016-241
The People &c.,
 Respondent,
 v.
James Massey,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2016-273
The People &c. ex rel. Gary H. Moore,
 Appellant,
 v.
Superintendent of Cocksackie Correctional
Facility,
 Respondent.

Motion for reconsideration of this Court's February
23, 2016 dismissal order denied.
Judge Stein took no part.

2 Mo. No. 2016-235
Cedric Munroe, et al.,
Appellants,
v.
Cheyenne Realty, LLC,
Respondent.

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

1 Mo. No. 2016-248
In the Matter of John Murano,
Appellant,
v.
Raymond Kelly, &c., et al.,
Respondents.

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

2 Mo. No. 2016-233
In the Matter of Diana Oliver,
Appellant,
v.
Mark A. Gross, &c., et al.,
Respondents.

Motion to dismiss appeal granted and appeal dismissed, without costs, for failure to proceed. Chief Judge DiFiore took no part.

1 Mo. No. 2016-240
Raisa Rozina, et al.,
Appellants,
v.
Casa 74th Development LLC, et al.,
Respondents.

Motion for reargument of motion for leave to appeal dismissed as untimely (see Rules of Ct of Appeals [22 NYCRR] 500.24[b]). Chief Judge DiFiore and Judge Garcia took no part.

1 Mo. No. 2016-242
The People &c.,
Respondent,
v.
Luke Steele,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2016-247
The People &c.,
 Respondent,
 v.
Mitchell Texidor,
 Appellant.

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

1 SSD 29
The People &c. ex rel. Dexter Washington,
also known as Eze Alimase,
 Appellant,
 v.
Kathleen G. Gerbing, Superintendent,
Otisville Correctional Facility,
 Respondent.

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

3 Mo. No. 2016-231
In the Matter of Judson Watkins,
 Appellant,
 v.
Albert Prack, &c.,
 Respondent.

Motion, insofar as it seeks leave to appeal from the
Appellate Division judgment, dismissed as untimely
(see CPLR 5513[b]; Eaton v State of New York, 76
NY2d 824 [1990]); motion, insofar as it seeks leave
to appeal from the Appellate Division order denying
reargument, dismissed upon the ground that such
order does not finally determine the proceeding
within the meaning of the Constitution.