

State of New York
Court of Appeals

Decisions

December 14, 2023

CASES

No. 92

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

Order reversed, defendant's CPL 30.30 motion granted and accusatory instrument dismissed. Opinion by Judge Halligan. Chief Judge Wilson and Judges Rivera, Garcia, Singas, Cannataro and Troutman concur.

4 No. 89

In the Matter of Bowers Development, LLC et al.,
Respondents,
v.
Oneida County Industrial Development Agency et al.,
Appellants.

Order reversed, with costs, matter remitted to the Appellate Division, Fourth Department, for consideration of issues raised but not determined by that Court and certified question answered in the negative, in a memorandum. Chief Judge Wilson and Judges Rivera, Garcia, Singas, Cannataro, Troutman and Halligan concur.

4 No. 28

The People &c.,
Respondent,
v.
Thomas P. Perdue,
Appellant.

Order affirmed. Opinion by Judge Singas. Chief Judge Wilson and Judges Garcia, Cannataro, Troutman and Halligan concur. Judge Rivera dissents in an opinion.

4 No. 88

In the Matter of Jun Wang,
Appellant,
v.
Letitia James, &c.,
Respondent.

Order affirmed, with costs. Opinion by Judge Cannataro. Chief Judge Wilson and Judges Rivera, Garcia, Singas, Troutman and Halligan concur.

MOTIONS

1 Mo. No. 2023-493
The People &c.,
Respondent,
v.
Jonathan Battiste,
Appellant.

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

4 Mo. No. 2023-494
Gloria Borrelli, &c.,
Appellant,
v.
Tom Thomas, &c. et al.,
Respondents.

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

4 Mo. No. 2023-442
Corey Brown et al.,
Appellants,
v.
Wal-Mart Stores, Inc., &c.,
Respondent,
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. 2023-684
In the Matter of Jayson C., Jr.

Motion for leave to appeal denied.
Motion for a stay dismissed as academic.

Mercy First,
Respondent;
Kimberly C.,
Respondent,
Jayson C.,
Appellant.
(And Another Proceeding.)

3 Mo. No. 2023-424
In the Matter of Citybridge, LLC,
 Appellant,
 v.
New York State Department of Public
Service, 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 proceeding within the meaning of the Constitution and is not an order of the type provided for in CPLR 5602 (a) (2).
Judge Halligan took no part.

1 Mo. No. 2023-490
Michael Clifford et al.,
 Appellants,
 v.
White Plains Hospital Medical Center, &c., et
al.,
 Respondents,
et al.,
 Defendants.

Motion for leave to appeal denied.

2 Mo. No. 2023-653
In the Matter of Jamie Cohen,
 Appellant,
 v.
Louis Escobar,
 Respondent.

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

3 Mo. No. 2023-628
In the Matter of Franco Compagnone,
 Appellant,
 v.
Thomas P. DiNapoli, &c.,
 Respondent.

Motion to vacate this Court's August 10, 2023 dismissal order granted.

3 Mo. No. 2023-473
In the Matter of Desirea F., &c.

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

Motion for leave to appeal denied.

2 Mo. No. 2023-385
Jeffrey P. Falk, &c.,
 Appellant,
 v.
Nassau County et al.,
 Respondents.

Motion for leave to appeal dismissed upon the
ground that it does not lie, appellant having
previously moved for leave to appeal to this Court
from the Appellate Division order from which leave
to appeal is currently sought (35 NY3d 1071 [2020]).

4 Mo. No. 2023-425
Francie F. Gilchrist,
 Appellant,
 v.
Mark Olver,
 Respondent.

Motion for leave to appeal denied.

4 SSD 46
In the Matter of Huntley Power, LLC,
 Appellant,
 v.
Town of Tonawanda,
 Respondent.
(Proceeding No. 1)

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

4 SSD 47
In the Matter of Huntley Power, LLC,
 Appellant,
 v.
Town of Tonawanda,
 Respondent.
(Proceeding No. 2)

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

4 Mo. No. 2023-659
In the Matter of Faith Luce,
Respondent,
v.
Joseph Buehlman, Sr.,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2023-462
The People &c. ex rel. Germaine Montes,
Appellant,
v.
Craig D. Apple Sr., &c.,
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2023-663
In the Matter of the Claim of Nancy Morales,
Respondent.
Amazon Logistics, Inc.,
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.

4 SSD 43
In the Matter of Niagara Falls
Redevelopment, LLC et al.,
Appellants,
v.
City of Niagara Falls,
Respondent.

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

3 Mo. No. 2023-466
Kathleen O'Keefe,
Respondent,
v.
Elizabeth Barra,
Appellant.

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

1 Mo. No. 2023-507
In the Matter of Only Properties LLC,
Appellant,
v.
New York City Department of Buildings et
al.,
Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2023-44
Felipe A. Ruisech et al.,
Appellants,
v.
Structure Tone Inc., &c., et al.,
Respondents.
(And Third-Party Actions.)

Motion for leave to appeal granted.

1 Mo. No. 2023-674
In the Matter of Owolabi M. Salis, &c.

Attorney Grievance Committee for the First
Judicial Department,
Respondent;
Owolabi M. Salis,
Appellant.

Motion for reargument denied.

3 SSD 44
In the Matter of Ethan Davis Smith et al.,
Appellants,
v.
Paul Pelagalli, &c. 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 order of the Appellate Division absent the direct involvement of a substantial constitutional question (*see* CPLR 5601).

3 SSD 45
In the Matter of Ethan Davis Smith et al.,
Appellants,
v.
Paul Pelagalli, &c. et al.,
Respondents.

Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that no appeal lies to this Court from the decision of an individual Justice of the Appellate Division.

1 Mo. No. 2023-753
Strabag, SpA,
 Appellant,
 v.
Crédit Agricole CIB,
 Defendant,
Alto Maipo SpA,
 Respondent.

Motion for leave to appeal dismissed upon the ground that the issues presented have become moot.
Motion for a stay dismissed as academic.

2 Mo. No. 2023-457
Nina Tsokolakyan,
 Appellant,
 v.
Tiffany Management, Ltd.,
 Respondent,
et al.,
 Defendants.

Motion for leave to appeal dismissed upon the ground that it does not lie, appellant having previously moved for leave to appeal to this Court from the Appellate Division order from which leave to appeal is currently sought (39 NY3d 1103 [2023]).

4 Mo. No. 2023-446
In the Matter of Juliet W.

Cattaraugus County Department of Social
Services,
 Respondent;
Amy W.,
 Appellant.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.
Motion for a stay dismissed as academic.
Judge Troutman took no part.