

State of New York
Court of Appeals

Decisions

February 20, 2024

CASES

1 No. 3
The People &c.,
 Respondent,
 v.
Gonzalo Aguilar,
 Appellant.

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

1 No. 11
Srecko Bazdaric et al.,
 Appellants,
 v.
Almah Partners LLC, et al.,
 Respondents.

Order reversed, with costs, plaintiffs' motion insofar
as it sought summary judgment as to liability on their
Labor Law § 241 (6) cause of action granted,
defendants' motion insofar as it sought summary
judgment on the Labor Law § 241 (6) cause of action
denied, and certified question answered in the
negative.
Opinion by Judge Rivera.
Chief Judge Wilson and Judges Troutman and
Halligan concur.
Judge Garcia concurs in result in an opinion, in
which Judges Singas and Cannataro concur.

 No. 6
Petróleos de Venezuela S.A., et al.,
 Appellants,
 v.
MUFG Union Bank, N.A. et al.,
 Respondents.

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 this Court's Rules of Practice, and
after hearing argument by counsel for the parties and
consideration of the briefs and record submitted, first
certified question, as reformulated, answered in
accordance with the opinion herein and remaining
questions not answered.
Opinion by Judge Troutman.
Chief Judge Wilson and Judges Rivera, Garcia,
Singas, Cannataro and Curran concur.
Judge Halligan took no part.

2 No. 13
The People &c.,
 Respondent,
 v.
Fernando Ramirez,
 Appellant.

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

2 No. 4
The People &c. ex rel. Douglas G. Rankin, on
behalf of Tyrone Waller,
 Respondent,
 v.
Cynthia Brann, &c.,
 Appellant.

Judgment reversed, without costs, habeas corpus
proceeding converted into a declaratory judgment
action, and judgment granted in accordance with the
opinion herein.
Opinion by Judge Garcia.
Chief Judge Wilson and Judges Rivera, Singas,
Cannataro, Troutman and Halligan concur.

MOTIONS

4 Mo. No. 2023-655
Cheswold (TL), LLC,
 Respondent,
 v.
James Wynn,
 Appellant,
et al.,
 Defendants.

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.

1 Mo. No. 2023-814
Peter Chien,
 Appellant,
 v.
James Fishman,
 Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that the orders appealed from do not finally determine the proceeding within the meaning of the Constitution. Motion by appellant to strike respondent's jurisdictional response denied.

2 Mo. No. 2023-632
The People &c.,
 Respondent,
 v.
Abraham Fernandez,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2023-626

Michael Fornino,
Appellant,

v.

New York Central Mutual Fire Insurance
Company et al.,

Respondents,

et al.,

Defendant.

(App. Div. No. CA 22-00897)

Michael Fornino,
Appellant,

v.

New York Central Mutual Fire Insurance
Company,

Respondent,

et al.,

Defendants.

(App. Div. No. CA 22-00898)

Michael Fornino,
Appellant,

v.

New York Central Mutual Fire Insurance
Company, et al.,

Defendants,

W.B. Payne Company, Inc.,

Respondent.

(App. Div. No. CA 22-00899)

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

2 Mo. No. 2023-610

The People &c.,
Respondent,

v.

Brian France,

Appellant.

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

1 Mo. No. 2023-601
Freedom Trust 2011-2, &c.,
Appellant,
v.
DB Structured Products, Inc.,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2023-583
Anthony G. Garcia,
Appellant,
v.
13 West 38 LLC, et al.,
Respondents.
(And Third-Party Actions.)

Motion for leave to appeal denied.

2 Mo. No. 2023-643
In the Matter of David Gruber,
Appellant,
v.
Suffolk County Board of Elections, et al.,
Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2023-688
HSBC Bank USA, N.A., &c.,
Respondent,
v.
Francis Caesar et al.,
Appellants,
et al.,
Defendants.

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 ancillary relief dismissed upon the ground that this Court does not have jurisdiction to entertain it (*see* NY Const, art VI, § 3).
Judge Halligan took no part.

1 Mo. No. 2023-558
In the Matter of Claudia Imbert,
Appellant,
v.
New York State Public Employment
Relations Board, et al.,
Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2023-762
Gregory D. Kilpatrick,
Appellant,
v.
Kathy Hochul, &c., et al.,
Respondents.

On the Court's own motion, appeal dismissed, without costs, upon the ground that no appeal lies from the order of an individual Justice of the Appellate Division (*see* NY Const, art VI, § 3 [b]; CPLR 5601).

Motion for leave to appeal dismissed upon the ground that no appeal lies from the order of an individual Justice of the Appellate Division (*see* NY Const, art VI, § 3 [b]; CPLR 5602).

1 Mo. No. 2023-501
Madison Square Garden Sports Corp., et al.,
Appellants,
v.
Factory Mutual Insurance Company, et al.,
Respondents.

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

Judge Halligan took no part.

4 Mo. No. 2023-576
Jason J. McGirr,
Appellant,
v.
Justin Zurbrick,
Defendant,
Canalside Harbor 2013, LLC,
Respondent.

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

1 Mo. No. 2023-669
Alex Pacheco,
Appellant,
v.
Alma Realty Corp., et al.,
Respondents,
et al.,
Defendant.

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.

4 Mo. No. 2023-593
Raymond Panek,
 Appellant,
 v.
Michelle Brantner, et al.,
 Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2023-691
In the Matter of the Claim of Jonathan
Pomerantz,
 Respondent,
 v.
City of Newburgh Fire Department,
 Appellant.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2023-604
In the Matter of Reclaim the Records et al.,
 Appellants,
 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. 2023-570
Irving Ruderman,
 Appellant,
 v.
New York State Insurance Fund,
 Respondent,
et al.,
 Defendants.

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

3 Mo. No. 2023-696
In the Matter of the Claim of Adam Schulze,
 Respondent,
 v.
City of Newburgh Fire Department,
 Appellant.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal granted.

1 Mo. No. 2023-548
Scottsdale Insurance Company,
 Appellant,
 v.
Mt. Hawley Insurance Company et al.,
 Respondents.

Motion, insofar as it seeks leave to appeal from the Appellate Division order denying appellant's motion for leave to appeal, 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. 2023-683
Bhupendra K. Shah,
 Appellant,
 v.
N.Y. State Office of Mental Health, et al.,
 Respondents.

Motion for reargument of motion for leave to appeal denied.

1 Mo. No. 2023-597
The People &c.,
 Respondent,
 v.
Daniel Sittler,
 Appellant.

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

4 Mo. No. 2023-640
The People &c.,
 Respondent,
 v.
David Snyder,
 Appellant.

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

4 Mo. No. 2023-678
In the Matter of State of New York,
Respondent,
v.
Robert T.,
Appellant.

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

2 Mo. No. 2023-768
Cheryl D. Uzamere,
Appellant,
v.
Ehigie Edobor Uzamere, &c., et al.,
Respondents,
et al.,
Defendant.

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.

2 Mo. No. 2023-512
Oscar Venegas,
Appellant,
v.
Breuer Shymer, et al.,
Defendants,
Salamon's Home Improvements, Inc., &c.,
Respondent.
(And Third-Party Actions.)

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

1 Mo. No. 2023-838
In the Matter of Linnea W.,
Appellant,
v.
Matthew P.,
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.

1 Mo. No. 2023-652
Wantmcs Holdings, LLC et al.,
 Respondents,
 v.
LiveXLiveMedia, Inc., &c. et al.,
 Respondents,
Danco Enterprises, LLC, et al.,
 Appellants,
et al.,
 Counterclaim Defendant.

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