

State of New York
Court of Appeals

Decisions

May 23, 2023

CASES

1 No. 39
In the Matter of Patrick J. Lynch, &c. et al.,
 Respondents-Appellants,
 v.
City of New York, et al.,
 Appellants-Respondents.

Order insofar as appealed from affirmed, with costs,
and insofar as cross-appealed from reversed, with
costs, and proceeding dismissed in its entirety.
Opinion by Judge Singas.
Chief Judge Wilson and Judges Garcia, Cannataro
and Troutman concur.
Judges Rivera and Halligan took no part.

4 No. 42
The People &c.,
 Respondent,
 v.
Hanza Muhammad,
 Appellant.

Order reversed and a new trial ordered.
Opinion by Judge Rivera.
Chief Judge Wilson and Judges Cannataro, Troutman
and Halligan concur.
Judge Garcia concurs in result in an opinion, in
which Judge Singas concurs.

1 No. 37
Estate of Tayshana Murphy, &c.,
 Appellant,
 v.
New York City Housing Authority,
 Respondent,
et al.,
 Defendants.

Order reversed, with costs, and motion by defendant
New York City Housing Authority for summary
judgment dismissing the complaint as against it
denied.
Opinion by Chief Judge Wilson.
Judges Rivera, Garcia, Singas, Cannataro and
Troutman concur.
Judge Halligan took no part.

1 No. 41
The People &c.,
 Respondent,
 v.
Dwight Reid,
 Appellant.

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

2 No. 36
Bryan Scurry, &c., et al.,
 Respondents,
 v.
New York City Housing Authority,
 Appellant.
(And Third-Party Actions.)

Order affirmed, with costs, and certified question
answered in the affirmative.
Opinion by Chief Judge Wilson.
Judges Rivera, Garcia, Singas, Cannataro and
Troutman concur.
Judge Halligan took no part.

3 No. 43
In the Matter of St. Lawrence County et al.,
 Appellants,
 v.
City of Ogdensburg et al.,
 Respondents,
et al.,
 Respondents.

Order insofar as appealed from affirmed, with costs.
Opinion by Judge Cannataro.
Chief Judge Wilson and Judges Rivera, Garcia,
Singas and Troutman concur.
Judge Halligan took no part.

2 No. 40
In the Matter of Teamsters Local 445,
 Respondent,
 v.
Town of Monroe,
 Appellant.

Judgment appealed from and order of the Appellate
Division brought up for review reversed, with costs,
and petition to compel arbitration denied.
Opinion by Judge Garcia.
Chief Judge Wilson and Judges Rivera, Singas,
Cannataro, Troutman and Halligan concur.

MOTIONS

1 Mo. No. 2023-232
21st Mortgage Corporation, &c.,
 Respondent,
 v.
Jin Lin, et al.,
 Defendants,
Renaissance Economic Development
Corporation,
 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. 2023-165
Mansoor Alam,
 Appellant,
 v.
State of New York,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2023-205
In the Matter of Anonymous, &c.

Patrick B.,
 Appellant.
(App. Div. No. 2022-07242)

Motion for reargument of motion for leave to appeal denied.
Judge Halligan took no part.

1 Mo. No. 2023-185
In the Matter of Atlantic Mutual Insurance
Company,
 Petitioner,
United Synagogue of Conservative Judaism,
 Appellant,
 v.
Superintendent of Financial Services of the
State of New York, &c.,
 Respondent.

Motion for leave to appeal dismissed as untimely. The prior motion for leave to appeal made to the Appellate Division was untimely (*see* Arthur Karger, Powers of the New York Court of Appeals § 12:3, at 436-437 [3d ed rev 2005]).

2 Mo. No. 2023-197
The People &c.,
Respondent,
v.
Duane Barry,
Appellant.

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

2 Mo. No. 2023-199
The People &c.,
Respondent,
v.
Herman Bautista,
Appellant.

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

1 Mo. No. 2023-178
The People &c.,
Respondent,
v.
Frank Brown,
Appellant.

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

4 Mo. No. 2023-133
John D. Cadore,
Appellant,
v.
State of New York,
Respondent.
(Claim No. 135656)

Motion to vacate this Court's January 9, 2023
dismissal order denied.
Motion for leave to appeal denied.

4 Mo. No. 2023-134
John D. Cadore,
Appellant,
v.
State of New York,
Respondent.
(Claim No. 129681)

Motion to vacate this Court's January 9, 2023
dismissal order denied.
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. 2023-213
Allan H. Carlin,
Respondent,
v.
William Gottlieb Management Co., LLC,
Appellant.

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

1 Mo. No. 2023-154
The People &c.,
Respondent,
v.
Francisco Colon,
Appellant.

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

1 Mo. No. 2023-175
The People &c.,
Respondent,
v.
Yelinton Concepcion,
Appellant.

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

2 Mo. No. 2023-192
The People &c.,
Respondent,
v.
Darnell Davison,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2023-168
Ritchie DeGraff,
Respondent,
v.
William Colantonio, &c.,
Appellant.
(And a Third-Party Action.)

Motion for leave to appeal dismissed upon the ground that simultaneous appeals do not lie to both the Appellate Division and the Court of Appeals (*see Parker v Rogerson*, 35 NY2d 751, 753 [1974]).

1 Mo. No. 2023-176
The People &c.,
Respondent,
v.
Raphael Dunkley,
Appellant.

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

2 Mo. No. 2023-142
The People &c.,
Respondent,
v.
Philip M. Evanson,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2023-174
The People &c.,
Respondent,
v.
Steven C. Forshey,
Appellant.

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

1 Mo. No. 2023-145
The People &c.,
Respondent,
v.
David Garcia,
Appellant.

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

1 Mo. No. 2023-166
The People &c.,
Respondent,
v.
Luis Garcia-Ponce,
Appellant.

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

3 Mo. No. 2023-167
In the Matter of Stephen W. Herrick, &c.,
 Respondent,
 v.
Town of Colonie,
 Respondent,
Mary Falace-Mayr, &c.,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2023-200
The People &c.,
 Respondent,
 v.
Morris Hraklis,
 Appellant.

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

1 Mo. No. 2023-121
Richard Lewkowicz, &c.,
 Appellant,
 v.
Terence Cardinal Cook Health Center, et al.,
 Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2023-243
Faye T. Madigan, &c.,
 Plaintiff,
 v.
Berkeley Capital LLC, et al.,
 Defendants,
Rosa Bronstein, et al.,
 Respondents,
Oceana Holding Corp.,
 Respondent.
Joseph Paukman,
 Appellant.

Motion for reconsideration of this Court's February
9, 2023 dismissal order denied.
Judge Halligan took no part.

1 Mo. No. 2023-144
Nella Manko,
Appellant,
v.
Dr. Dana Mannor, et al.,
Respondents,
Lenox Hill Hospital, &c. et al.,
Defendants.

Nella Manko,
Appellant,
v.
Dana Mannor, et al.,
Respondents,
"Anesthesiologist" (a fictitious name), et al.,
Defendants.

2 Mo. No. 2023-202
The People &c.,
Respondent,
v.
Tom McVie, &c.,
Appellant.

2 Mo. No. 2023-198
The People &c.,
Respondent,
v.
Albert Melendez,
Appellant.

2 Mo. No. 2023-201
The People, &c.,
Respondent,
v.
Mark Miranda,
Appellant.

Motion for reargument of motion for leave to appeal dismissed as untimely (*see* Rules of Ct of Appeals [22 NYCRR] § 500.24 [b]).
Motion for poor person relief dismissed as academic. Chief Judge Wilson and Judge Cannataro took no part.

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

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

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

2 Mo. No. 2023-226
Olimpiada Munteanu,
Appellant,
v.
Karah Payman, et al.,
Respondents.

Motion for leave to appeal dismissed upon the ground that no motion for leave to appeal lies from an Appellate Division order dismissing an appeal from a decision (*see* CPLR 5602).

4 Mo. No. 2023-163
The People &c.,
Respondent,
v.
Todd S. Pritchard,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2023-50
In the Matter of Michele Rawlins,
Appellant,
v.
Teachers' Retirement System of the City of
New York, et al.,
Respondents.

Motion for leave to appeal granted.

1 Mo. No. 2023-195
In the Matter of Howard Robins, &c.,
Appellant,
v.
New York City Office of Chief Medical
Examiner, et al.,
Respondents.

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

2 Mo. No. 2023-204
The People &c.,
Respondent,
v.
Edgar Rodriguez,
Appellant.

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

2 Mo. No. 2023-151
The People &c.,
Respondent,
v.
Anthony Rucano,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2023-220
Abdus Shahid,
Appellant,
v.
Martin A. Bienstock,
Respondent.

Motion for reargument of motion for leave to appeal denied.
Judge Halligan took no part.

2 Mo. No. 2023-216
In the Matter of Harinder Jeet Singh,
Appellant,
v.
New York State Division of Housing and
Community Renewal,
Respondent.

Motion for reargument of motion for leave to appeal denied.
Judge Halligan took no part.

1 Mo. No. 2023-150
The People &c.,
Respondent,
v.
Juan Soto,
Appellant.

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

4 Mo. No. 2023-172
Robert Stern,
Appellant,
v.
Golub Corporation, et al.,
Respondents.

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