

**State of New York**  
**Court of Appeals**

**Decisions**

November 20, 2023

**CASES**

3                    No. 86  
In the Matter of Christopher Black,  
    Appellant,  
    v.  
New York State Tax Appeals Tribunal, et al.,  
    Respondents.

Judgment affirmed, with costs.  
Opinion by Judge Cannataro.  
Chief Judge Wilson and Judges Rivera, Garcia and Singas concur.  
Judge Troutman dissents in an opinion, in which Judge Halligan concurs.

                          No. 77  
Herman Brettler, &c.,  
    Appellant,  
    v.  
Allianz Life Insurance Company of North  
America,  
    Respondent.

Following certification of a question by the United States Court of Appeals for the Second Circuit and acceptance of the question 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, certified question, as reformulated, answered in the affirmative.  
Opinion by Judge Halligan.  
Chief Judge Wilson and Judges Rivera, Garcia, Singas, Cannataro and Troutman concur.

2                    No. 75  
The People &c.,  
    Respondent,  
    v.  
Donna Jordan,  
    Appellant.

Order reversed and a new trial ordered.  
Opinion by Judge Garcia.  
Chief Judge Wilson and Judges Rivera, Singas, Cannataro, Troutman and Halligan concur.

1                    No. 74  
The People &c.,  
    Respondent,  
    v.  
Yoselyn Ortega,  
    Appellant.

Order affirmed.  
Opinion by Judge Singas.  
Chief Judge Wilson and Judges Rivera, Garcia, Cannataro, Troutman and Duffy concur.  
Judge Halligan took no part.

1                    No. 82  
Police Benevolent Association of the City of  
New York, Inc., et al.,  
                  Appellants,  
          v.  
City of New York,  
                  Respondent.

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

4                    No. 81  
In the Matter of Rochester Police Locust  
Club, Inc., et al.,  
                  Respondents,  
          v.  
City of Rochester, et al.,  
                  Respondents,  
Council of City of Rochester,  
                  Appellant.

Order insofar as appealed from affirmed, with costs.  
Opinion by Judge Egan Jr.  
Judges Garcia, Singas and Cannataro concur.  
Chief Judge Wilson dissents in an opinion, in which  
Judges Rivera and Halligan concur.  
Judge Troutman took no part.

## MOTIONS

1                    Mo. No. 2023-503  
50 East 126th Street Realty LLC,  
Respondent,  
v.  
Gisele Brouillette Allard,  
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.

                         Mo. No. 2023-685  
The People &c.,  
Respondent,  
v.  
Jason Brown,  
Appellant.

Motion for assignment of counsel granted and Twyla Carter, Esq., The Legal Aid Society, 199 Water Street, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.

4                    Mo. No. 2023-433  
K.C.,  
Respondent,  
v.  
N.C.,  
Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2023-472  
Anna Condo,  
Appellant,  
v.  
George Condo,  
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. 2023-709  
Nigel John Eccles, et al.,  
Appellants,  
v.  
Shamrock Capital Advisors, LLC, et al.,  
Respondents.

Motion by Patrick J. Borchers, et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed. The brief must be submitted in digital format within seven days.  
Judges Garcia and Halligan took no part.

2 Mo. No. 2023-533  
The People &c.,  
Respondent,  
v.  
Shemroy T. Evelyn-Moe,  
Appellant.

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

2 Mo. No. 2023-517  
The People &c.,  
Respondent,  
v.  
Harvey Gunter,  
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2023-586  
In the Matter of Michael E. Houck,  
Appellant,  
v.  
Valerie R. Houck,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2023-419  
The People &c.,  
Respondent,  
v.  
Robert Infantino,  
Appellant.

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

3 SSD 41  
Michael N. Kelsey,  
Appellant,  
v.  
Felix Catena, &c. et al.,  
Respondents,  
et al.,  
Defendants.

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

4 Mo. No. 2023-703  
The People &c.,  
Respondent,  
v.  
Eugene L. Lively,  
Appellant.

Motion for assignment of counsel granted and Karen G. Leslie, Esq., P.O. Box 624, Riverhead, NY 11901 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2023-679  
Long Island Airline LLC,  
Appellant,  
v.  
Town of East Hampton,  
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.  
Motion for a stay dismissed as academic.

1 SSD 42  
Stacy Makhnevich,  
Appellant,  
v.  
Board of Managers of 2900 Ocean  
Condominium et al.,  
Respondents.

Appeal, insofar as taken from that portion of the Appellate Division order that affirmed so much of the July 2021 Supreme Court order as dismissed the action, dismissed without costs, by the Court *sua sponte*, upon the ground that no substantial constitutional question is directly involved; appeal otherwise dismissed without costs, by the Court *sua sponte*, upon the ground that the remainder of the Appellate Division order does not finally determine the action within the meaning of the Constitution.

2 Mo. No. 2023-535  
Nella Manko,  
Appellant,  
v.  
State of New York,  
Respondent.

Motion for reconsideration of this Court's June 13, 2023 dismissal order denied.  
Motion for poor person relief dismissed as academic.  
Chief Judge Wilson took no part.

2 Mo. No. 2023-536  
Nella Manko,  
Appellant,  
v.  
Shorefront Apartments, LLC,  
et al.,  
Respondents.

Motion for reconsideration of this Court's June 13, 2023 dismissal order denied.  
Motion for poor person relief dismissed as academic.  
Chief Judge Wilson took no part.

4 Mo. No. 2023-704  
The People &c.,  
Respondent,  
v.  
Michael Minutolo, Jr.,  
Appellant.

Motion for an extension of the time within which to apply for permission to appeal pursuant to CPL 460.20 granted and motion papers treated as a timely CPL 460.20 application.

3 Mo. No. 2023-715  
The People &c.,  
Respondent,  
v.  
Joshua L. Muller,  
Appellant.

Motion for an extension of the time within which to apply for permission to appeal pursuant to CPL 460.20 granted and motion papers treated as a timely CPL 460.20 application.

2 Mo. No. 2023-478  
The People &c.,  
Respondent,  
v.  
Joseph Oyola,  
Appellant.

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

2 Mo. No. 2023-460  
The People &c. ex rel. Ava C. Page, &c.,  
Appellant,  
v.  
Leroy Fields, Jr., &c. et al.,  
Respondents.

On the Court's own motion, appeal dismissed, without costs, upon the ground that no substantial constitutional question is directly involved.  
Motion for poor person relief dismissed as academic.

2 Mo. No. 2023-538  
The People &c.,  
Respondent,  
v.  
Brian Palmer,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2023-690  
Margarita Pulgarin,  
Appellant,  
v.  
William F. Richmond 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.

4 Mo. No. 2023-463  
The People &c.,  
Respondent,  
v.  
Armando Ramirez,  
Appellant.

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

3 Mo. No. 2023-421  
In the Matter of Danielle Roberts,  
Appellant,  
v.  
New York State Board for Professional  
Medical Conduct,  
Respondent.

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

3 Mo. No. 2023-447  
The People &c. ex rel. Whirlee Rudolph,  
Appellant,  
v.  
Lynn J. Lilley, &c.,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2023-682  
The People &c.,  
Respondent,  
v.  
David Vaughn,  
Appellant.

Motion for assignment of counsel granted and Patricia Pazner, Esq., Appellate Advocates, 111 John Street, 9th Floor, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.

4                    Mo. No. 2023-469  
Ryan Weaver,  
    Respondent,  
    v.  
DeRonde Tire Supply, Inc., et al.,  
    Defendants,  
Estes Express Lines,  
    Appellant.

Motion for reconsideration of this Court's May 18, 2023 dismissal order dismissed as untimely (*see* Rules of Ct of Appeals [22 NYCRR] § 500.24 [b]).

1                    Mo. No. 2023-702  
The People &c.,  
    Respondent,  
    v.  
Harvey Weinstein,  
    Appellant.

Motion by Sanctuary for Families Inc., et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served, an original and nine copies filed, and the brief submitted in digital format within seven days. Judges Troutman and Halligan took no part.