

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

**Decisions**

April 18, 2024

**CASES**

1                    No. 69 SSM 1  
The People &c.,  
    Respondent,  
    v.  
Jean Dufresne,  
    Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, without costs (*see People v Boone*, \_\_NY3d \_\_, 2024 NY Slip Op 00928 [2024]).  
Chief Judge Wilson and Judges Rivera, Garcia, Singas, Cannataro, Troutman and Halligan concur.

                          No. 71  
Brittany N. Jones, &c.,  
    Appellant,  
    v.  
Cattaraugus-Little Valley Central School  
District,  
    Respondent.

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 issue presented is to be considered after briefing and argument.  
Chief Judge Wilson and Judges Rivera, Garcia, Singas, Cannataro, Troutman and Halligan concur.

                          No. 29  
Ester Lelchook, &c., et al.,  
    Appellants,  
    v.  
Société Générale de Banque au Liban SAL,  
    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 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 answered in the affirmative and second certified question not answered as unnecessary.  
Opinion by Judge Halligan.  
Chief Judge Wilson and Judges Rivera, Garcia, Singas, Cannataro and Troutman concur.

1                    No. 36  
Gregory Morrison,  
    Appellant,  
    v.  
New York City Housing Authority,  
    Respondent.

Order affirmed, with costs, in a memorandum.  
Chief Judge Wilson and Judges Rivera, Garcia,  
Singas, Cannataro, Troutman and Halligan concur.

4                    No. 70 SSM 2  
Amber R., &c.,  
    Appellant,  
    v.  
Pediatric & Adolescent Urgent Care of  
Western New York, PLLC et al.,  
    Respondents,  
et al.,  
    Defendant.

On review of submissions pursuant to section 500.11  
of the Rules, order reversed, with costs, and order of  
Supreme Court, Erie County, reinstated. Triable  
issues of fact exist as to the claim for medical  
malpractice with respect to the placement of the  
endotracheal tube in the infant (*see Vega v Restani  
Constr. Corp.*, 18 NY3d 499, 503 [2012]).  
Chief Judge Wilson and Judges Rivera, Garcia,  
Singas, Cannataro, Troutman and Halligan concur.

3                    No. 40  
The People &c.,  
    Respondent,  
    v.  
Yasif Sims,  
    Appellant.

Order affirmed, in a memorandum.  
Chief Judge Wilson and Judges Rivera, Garcia,  
Singas, Cannataro, Troutman and Halligan concur.

## MOTIONS

1                    Mo. No. 2024-220  
122 East 42nd Street, LLC,  
    Respondent,  
    v.  
Joseph Scharf et al.,  
    Appellants.

Motion by West Side Advisors, LLC et al. for leave to file a brief amici curiae on the appeal herein denied.

2                    SSD 5  
In the Matter of Anonymous, &c.  
  
Grievance Committee for the Second,  
Eleventh, and Thirteenth Judicial Districts,  
    Respondent;  
Anonymous,  
    Appellant.  
(App. Div. No. 2021-05514)

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the proceeding within the meaning of the Constitution.

2                    SSD 6  
In the Matter of Anonymous, &c.  
  
Grievance Committee for the Second,  
Eleventh, and Thirteenth Judicial Districts,  
    Respondent;  
Anonymous,  
    Appellant.  
(App. Div. No. 2021-08435)

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the proceeding within the meaning of the Constitution.

2                    Mo. No. 2024-21  
In the Matter of G.B.,  
    Appellant.

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

4 Mo. No. 2024-90  
In the Matter of Jaylin B.

Onondaga County Department of Children  
and Family Services,  
Respondent;  
Mariah S.,  
Appellant.

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

2 Mo. No. 2023-823  
In the Matter of Jivaro T. Bristow,  
Appellant,  
v.  
Keyshla Patrice,  
Respondent.  
(And a Related Proceeding.)

Motion for leave to appeal denied.

2 Mo. No. 2023-729  
In the Matter of State of New York,  
Respondent,  
v.  
Shannon C.,  
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2024-247  
The People &c.,  
Respondent,  
v.  
Tyquan Commisso,  
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 SSD 4  
In the Matter of Corning Natural Gas  
Corporation,  
Appellant,  
v.  
Public Service Commission of the State of  
New York,  
Respondent.

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

3                    Mo. No. 2024-75  
In the Matter of Dustin D., &c.

Motion for leave to appeal denied.

Saratoga County Department of Social  
Services,  
    Respondent;  
Paul D.,  
    Appellant.

2                    Mo. No. 2024-222  
In the Matter of Richard Dionisio,  
    Respondent,

Motion for leave to appeal denied.

    v.  
Ronald Belmont,  
    Appellant,  
Mark Jaffe,  
    Respondent,  
et al.,  
    Respondents/Defendants.

2                    Mo. No. 2024-224  
In the Matter of Richard Dionisio,  
    Respondent,

Motion for leave to appeal denied.

    v.  
Ronald Belmont,  
    Respondent,  
Mark Jaffe,  
    Appellant,  
et al.,  
    Respondents/Defendants.

4                    Mo. No. 2023-797  
In the Matter of Barry G., Jr.

Motion for leave to appeal denied.

Erie County Department of Social Services,  
    Respondent;  
Barry G.,  
    Appellant.

Mo. No. 2023-670  
Amy R. Gurvey, &c.,  
Appellant,  
v.  
State of New York,  
Respondent.

On the Court's own motion, appeal transferred, without costs, to the Appellate Division, Third Department, upon the ground that a direct appeal does not lie when questions other than the constitutional validity of a statutory provision are involved (*see* NY Const, art VI, §§ 3 [b] [2], 5 [b]; CPLR 5601 [b] [2]).  
Motion for a stay dismissed as academic.

1 Mo. No. 2024-185  
The People &c.,  
Respondent,  
v.  
Mitchell Hernandez,  
Appellant.

Motion by Prisoners' Legal Services of New York, et al. for leave to appear amici curiae on the appeal herein granted to the extent that 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. Judge Halligan took no part.

2 Mo. No. 2024-203  
The People &c.,  
Respondent,  
v.  
Charles Howard,  
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. 2024-287  
The People &c.,  
Respondent,  
v.  
Donkavius D. Howard,  
Appellant.

Motion for assignment of counsel granted and Julie A. Cianca, Esq., Monroe County Public Defender, 10 North Fitzhugh Street, Rochester, NY 14614 assigned as counsel to the appellant on the appeal herein.

3                    Mo. No. 2024-191  
In the Matter of Daniel Karlin,  
                  Appellant,  
          v.  
Tina M. Stanford, &c.,  
                  Respondent.

Motion by New York Civil Liberties Union for leave to appear amicus curiae on the appeal herein granted to the extent that the proposed brief is accepted as filed. The brief must be submitted in digital format within seven days.  
Judge Halligan took no part.

1                    Mo. No. 2024-291  
K.E. Liggett,  
                  Appellant,  
          v.  
Lew Realty LLC,  
                  Respondent.

Motion by Rent Stabilization Association of NYC, Inc. for leave to file a brief amicus 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.

4                    Mo. No. 2024-27  
In the Matter of Steven M.  
  
Oswego County Department of Social  
Services,  
                  Respondent;  
Scott M.,  
                  Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2024-42  
In the Matter of Leonard P.

Erie County Department of Social Services,  
Respondent;  
Patricia M.,  
Appellant.

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In the Matter of Kevin P.

Erie County Department of Social Services,  
Respondent;  
Patricia M.,  
Appellant.

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In the Matter of Michael M.

Erie County Department of Social Services,  
Respondent;  
Patricia M.,  
Appellant.

4 SSD 7  
In the Matter of Penney Property Sub  
Holdings, LLC,  
Appellant,  
v.  
Town of Amherst,  
Respondent.

Motion for leave to appeal denied.

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

4 Mo. No. 2023-734  
In the Matter of Charles Reardon,  
Respondent,  
v.  
Cynthia Krause,  
Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2023-720  
In the Matter of Jennielena Rubino, &c.

Grievance Committee for the Ninth Judicial  
District,  
                  Respondent;  
Jennielena Rubino,  
                  Appellant.

1                    Mo. No. 2024-188  
The People &c.,  
                  Respondent,  
                  v.  
Juan M. Silva Santos,  
                  Appellant.

3                    Mo. No. 2024-251  
In the Matter of United Jewish Community of  
Blooming Grove, Inc., et al.,  
                  Appellants,  
                  v.  
Washingtonville Central School District et al.,  
                  Respondents.

3                    Mo. No. 2024-273  
In the Matter of United Jewish Community of  
Blooming Grove, Inc., et al.,  
                  Appellants,  
                  v.  
Washingtonville Central School District et al.,  
                  Respondents.

Motion for leave to appeal denied.  
Judge Rivera took no part.

Motion for assignment of counsel granted and Jenay  
Nurse Guilford, Esq., Center for Appellate  
Litigation, 120 Wall Street, 28th Floor, New York,  
NY 10005 assigned as counsel to the appellant on the  
appeal herein.

Motion by Agudath Israel of America for leave to  
file a brief amicus 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.

Motion by New York State School Boards  
Association, Inc. for leave to file a brief amicus  
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.

3 Mo. No. 2024-283  
In the Matter of United Jewish Community of  
Blooming Grove, Inc., et al.,  
Appellants,  
v.  
Washingtonville Central School District et al.,  
Respondents.

Motion by Sheri Torah, Inc. 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.

4 Mo. No. 2024-229  
The People &c.,  
Respondent,  
v.  
Jerry Watkins,  
Appellant.

Motion for assignment of counsel granted and Julie  
A. Cianca, Esq., Monroe County Public Defender, 10  
North Fitzhugh Street, Rochester, NY 14614  
assigned as counsel to the appellant on the appeal  
herein.

Mo. No. 2024-263  
The People &c.,  
Respondent,  
v.  
McKenzie Willis,  
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.

3 Mo. No. 2024-252  
The People &c.,  
Appellant,  
v.  
Brenda WW.,  
Respondent.

Motion for assignment of counsel granted and  
Veronica Reed, Esq., c/o Law Office of Veronica  
Reed, 2320 Nott Street East, No. 9591, Schenectady,  
NY 12309 assigned as counsel to the respondent on  
the appeal herein.

4 SSD 8  
Siyu Yang et al.,  
Appellants,  
v.  
University of Rochester/Eastman School of  
Music, et al.,  
Respondents.

Appeal dismissed without costs, by the Court sua  
sponte, upon the ground that the order appealed from  
does not finally determine the action within the  
meaning of the Constitution.