

State of New York
Court of Appeals

Decisions

September 12, 2024

MOTIONS

1 Mo. No. 2024-508
122 East 42nd Street, LLC,
 Respondent,
 v.
Joseph Scharf et al.,
 Appellants.

Motion by Andrew R. Berman for leave to file a brief amicus curiae on the appeal herein dismissed as academic.

1 Mo. No. 2024-577
In the Matter of 160 E. 84th St. Associates
LLC,
 Appellant,
 v.
New York State Division of Housing and
Community Renewal,
 Respondent.
(Index No. 157576/20)
(And Eight Other Appeals.)

Motion by New York Apartment Association, Inc. for leave to file a brief amicus curiae on the appeals 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. 2024-359
In the Matter of State of New York,
 Respondent,
 v.
Tyree A.,
 Appellant.

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.
Motion for poor person relief dismissed as academic.

1 Mo. No. 2024-278
B and H Florida Notes LLC,
 Appellant,
 v.
Alexander Ashkenazi et al.,
 Defendants,
W89D5 LLC,
 Respondent.

On the Court's own motion, appeal, insofar as taken from so much of the November 2023 Appellate Division order as reversed the February 2022 Supreme Court order denying W89D5 LLC's motion for summary judgment dismissing the complaint and granted the motion, dismissed, without costs, upon the ground that no substantial constitutional question is directly involved; appeal, insofar as taken from the remainder of the November 2023 order and the March 2024 Appellate Division order, dismissed, without costs, upon the ground that such orders do not finally determine the action within the meaning of the Constitution.

Motion, insofar as it seeks leave to appeal from so much of the November 2023 order as reversed the February 2022 Supreme Court order denying W89D5 LLC's motion for summary judgment dismissing the complaint and granted the motion, denied; motion, insofar as it seeks leave to appeal from the remainder of the November 2023 order and the March 2024 order, dismissed upon the ground that such orders do not finally determine the action within the meaning of the Constitution.

1 Mo. No. 2024-448
The People &c.,
 Respondent,
 v.
Zavearr Bacon,
 Appellant.

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.

4 Mo. No. 2024-218
In the Matter of Adam B.-L.

Motion for leave to appeal denied.

Erie County Department of Social Services,
 Respondent;
Darryl P.,
 Appellant.

3 Mo. No. 2024-570
The People &c.,
Respondent,
v.
Jason Brisman,
Appellant.

Motion by New York State Association of Criminal Defense Lawyers for leave to appear amicus 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.

3 Mo. No. 2024-575
Henry E. Calabrese,
Respondent,
v.
City of Albany,
Appellant.

Motion by City of Syracuse, et al. for leave to appear amici 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.

4 Mo. No. 2024-353
In the Matter of Peter J. Cedrone,
Appellant,
v.
City of Fulton Assessor's Office,
Respondent.

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

2 Mo. No. 2024-431
The People &c.,
Respondent,
v.
Hector Chacon-Diaz,
Appellant.

Motion for an extension of the time within which to apply for permission to appeal pursuant to CPL 460.20 dismissed as untimely.

3 Mo. No. 2024-617
Andrew M. Cuomo,
Respondent,
v.
New York State Commission on Ethics and Lobbying in Government,
Appellant.

Motion by New York City Bar Association, 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.

1 Mo. No. 2024-597
Regina Farage,
 Appellant,
 v.
Associated Insurance Management Corp., et
al.,
 Defendants,
Tower Insurance Company of New York, et
al.,
 Respondents.

 Mo. No. 2024-585
The People &c.,
 Respondent,
 v.
Christopher Farrell,
 Appellant.

4 Mo. No. 2024-513
Rebecca M. Flanders,
 Appellant,
 v.
Stephen F. Goodfellow et al.,
 Respondents.

4 Mo. No. 2024-318
In the Matter of Courtney Fowler,
 Respondent,
 v.
Lanny Jones,
 Appellant.

2 Mo. No. 2024-341
In the Matter of Willy Franklin,
 Appellant-Respondent,
 v.
Catina Quinones,
 Respondent-Appellant.

Motion by American Property Casualty Insurance Association 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 Legal Action Network for Animals 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 Academy of Trial Lawyers for leave to file a brief amicus 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.

Motion for leave to appeal denied.

Motions for leave to appeal denied.

4 SSD 28
In the Matter of Frank Garcia,
Appellant,
v.
Craig J. Doran, &c.,
Respondent.

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). Judge Troutman took no part.

1 SSD 30
In the Matter of Good Lawgic, LLC et al.,
Appellants,
v.
Juan M. Merchan, &c., et al.,
Respondents.

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

4 Mo. No. 2024-324
In the Matter of Albina H. et al.

Onondaga County Department of Children
and Family Services,
Respondent;
Xenia H.,
Respondent,
John H.,
Appellant.

Motion for leave to appeal dismissed upon the ground that the order of the Appellate Division sought to be appealed from has been vacated and superseded by a subsequent order of that Court.

4 Mo. No. 2024-546
In the Matter of Albina H. et al.

Onondaga County Department of Children
and Family Services,
Respondent;
Xenia H.,
Respondent,
John H.,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2024-594
The People &c.,
Respondent,
v.
Carissa Hemingway,
Appellant.

Motion for assignment of counsel granted and Mark Schneider, Esq., 57 Court Street, Plattsburgh, NY 12901 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2024-628
The People &c.,
Respondent,
v.
Rosemary Hernandez,
Appellant.

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.

3 Mo. No. 2024-381
In the Matter of Winter II., &c.

Motion for leave to appeal denied.

Schenectady County Department of Social Services,
Respondent;
Kerriann II.,
Appellant.
(And Another Proceeding.)

1 Mo. No. 2024-596
In the Matter of Shani Jeter,
Appellant,
v.
Sheila Poole, &c. et al.,
Respondents.

Motion by Just Making a Change for Families, et al. for leave to appear amici curiae on the appeal herein denied (*see Matter of Jeter v Poole, amici curiae relief denied* — NY3d —, 2024 NY Slip Op 71777 [2024]).
Judges Rivera and Halligan took no part.

1 Mo. No. 2024-629
The People &c.,
Respondent,
v.
Omar Johnson,
Appellant.

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.

Mo. No. 2024-607
Brittany N. Jones, &c.,
Appellant,
v.
Cattaraugus-Little Valley Central School
District,
Respondent.

Motion by CHILD USA 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.

2 SSD 29
JPMorgan Chase Bank, National Association,
Respondent,
v.
Gary Newton, &c. et al.,
Appellants.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that it does not lie (*see* NY Const, art VI, § 3 [b]; CPLR 5601).

4 Mo. No. 2024-408
In the Matter of Adrian L. et al.

Oneida County Department of Family and
Community Services,
Respondent;
Keetoyia B.,
Respondent,
Jason L.,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2024-140
In the Matter of the People &c., by Letitia
James, &c.,
Respondent,
v.
Leasing Expenses Company LLC, et al.,
Appellants,
et al.,
Respondents.

Motion for leave to appeal 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 proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.
Judge Cannataro took no part.

2 Mo. No. 2024-346
In the Matter of Gene Limanov,
 Respondent,
 v.
Vera Limanov,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2024-28
In the Matter of Josaph M.

Monroe County Department of Human
Services,
 Respondent;
Wanda A.,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2024-387
In the Matter of Damineh M.,
 Respondent,
 v.
Bedouin L.J.,
 Appellant.

Motion for leave to appeal denied.

 Mo. No. 2024-589
The People &c.,
 Respondent,
 v.
Agustin Morel,
 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.

2 SSD 25
MTGLQ Investors, L.P.,
 Appellant,
 v.
Harmel Singh,
 Respondent,
et al.,
 Defendants.

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

4 Mo. No. 2024-499
In the Matter of New York Civil Liberties
Union,
Respondent,
v.
City of Rochester et al.,
Appellants.

Motion by The Reporters Committee for Freedom of the Press, et al. for leave to 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.

Judge Halligan took no part.

4 Mo. No. 2024-510
In the Matter of New York Civil Liberties
Union,
Respondent,
v.
City of Rochester et al.,
Appellants.

Motion by NAACP Legal Defense & Educational Fund, Inc. 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.

4 Mo. No. 2024-533
In the Matter of New York Civil Liberties
Union,
Respondent,
v.
City of Rochester et al.,
Appellants.

Motion by The Legal Aid Society for leave to appear amicus curiae on the appeal herein denied (*see* Rules of Ct of Appeals [22 NYCRR] § 500.23 ["Amicus curiae relief will be denied where acceptance of the amicus curiae submission may cause the recusal or disqualification of one or more Judges of the Court."])).

Judges Garcia and Halligan took no part.

1 Mo. No. 2024-507
In the Matter of NYC Organization of Public
Service Retirees, Inc., et al.,
Respondents,
v.
Renee Campion, et al.,
Appellants.

Motion by The Public Sector HealthCare Roundtable 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. 2024-357
Deborah Pusatere, et al.,
 Respondents,
 v.
City of Albany, et al.,
 Appellants.

Motion by New York State Association of Realtors, Inc. for leave to file a brief amicus curiae on the appeal herein dismissed as academic. Judge Halligan took no part.

1 Mo. No. 2024-523
The People &c.,
 Respondent,
 v.
Leighton R.,
 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. 2024-467
The People &c.,
 Respondent,
 v.
Camille Racona,
 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.

4 Mo. No. 2024-423
In the Matter of Milira Robinson,
 Appellant,
 v.
Amir Santiago,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2024-444
The People &c.,
 Respondent,
 v.
Savion Robinson,
 Appellant.

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.

1 Mo. No. 2024-477
The People &c.,
 Respondent,
 v.
Christopher Salas,
 Appellant.

Motion for assignment of counsel granted and
Caprice R. Jenerson, Esq., Office of the Appellate
Defender, 11 Park Place, Suite 1601, New York, NY
10007 assigned as counsel to the appellant on the
appeal herein.

4 Mo. No. 2024-440
In the Matter of Jean C. Sevilla,
 Appellant,
 v.
Rochelle Torres,
 Respondent.

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

3 Mo. No. 2024-483
The People &c.,
 Respondent,
 v.
Timothy Shader,
 Appellant.

Motion by Appellate Advocates, et al. for leave to
appear amici 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.

2 Mo. No. 2024-399
In the Matter of Theresa C. Smith,
 Respondent,
 v.
Jenny E. Brandao,
 Appellant.
(And Another Proceeding.)

Motion for leave to appeal dismissed upon the
ground that that the order sought to be appealed from
does not finally determine the proceedings within the
meaning of the Constitution.

3 Mo. No. 2024-379
In the Matter of Kamariana SS. et al., &c.

Schenectady County Department of Social
Services,
 Respondent;
Anthony SS.,
 Appellant.

Motion for leave to appeal denied.

1 SSD 31
In the Matter of Donald J. Trump,
Appellant,
v.
Juan M. Merchan, &c., et al.,
Respondents.

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

1 Mo. No. 2024-521
In the Matter of Donald J. Trump,
Appellant,
v.
Juan M. Merchan, &c., et al.,
Respondents.

Motion for leave to appeal denied. Chief Judge Wilson and Judge Halligan took no part.

4 Mo. No. 2024-566
Ali Tuckett,
Appellant,
v.
State of New York,
Respondent.

Motion by New York State Association of Criminal Defense Lawyers, 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.

1 Mo. No. 2023-651
U.S. Bank National Association, &c.,
Appellant,
v.
Cassandra Fox,
Respondent,
et al.,
Defendants.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements. Judge Halligan took no part.

3 Mo. No. 2024-625
The People &c.,
Respondent,
v.
Angela VV.,
Appellant.

Motion for assignment of counsel granted and Mitch Kessler, 63 Pike Creek Drive, Cohoes, NY 12110 assigned as counsel to the appellant on the appeal herein.

Mo. No. 2024-590
The People &c.,
Respondent,
v.
Locksley Williams,
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.

1 Mo. No. 2024-458
Emily Wu,
Appellant,
v.
Uber Technologies, Inc.,
Respondent,
et al.,
Defendants.

Motion by Association of Professional Responsibility Lawyers for leave to file a brief amicus curiae on the appeal herein denied (*see* Rules of Ct of Appeals [22 NYCRR] § 500.23 ["Amicus curiae relief will be denied where acceptance of the amicus curiae submission may cause the recusal or disqualification of one or more Judges of the Court."]).
Judge Halligan took no part.

1 Mo. No. 2024-502
Emily Wu,
Appellant,
v.
Uber Technologies, Inc.,
Respondent,
et al.,
Defendants.

Motion by Public Justice 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.

2 Mo. No. 2024-435
In the Matter of Christopher Zambas,
Appellant,
v.
Danielle Condon,
Respondent.
(And Two Other Proceedings.)

Motion for leave to appeal denied.