

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

**Decisions**

October 17, 2024

**CASES**

1                    No. 78  
In the Matter of Athena Clarke,  
    Appellant,  
    v.  
Board of Education of the City School District  
of the City of New York, et al.,  
    Respondents.  
(And Three Other Proceedings.)

Order affirmed, with costs, and certified question not answered as unnecessary, in a memorandum. Chief Judge Wilson and Judges Garcia, Singas, Cannataro, Troutman, Halligan and Taylor concur. Judge Rivera took no part.

1                    No. 77  
In the Matter of Christine O'Reilly,  
    Appellant,  
    v.  
Board of Education of the City School District  
of the City of New York, et al.,  
    Respondents.  
(And Three Other Proceedings.)

Order affirmed, with costs, and certified question not answered as unnecessary, in a memorandum. Chief Judge Wilson and Judges Garcia, Singas, Cannataro, Troutman, Halligan and Taylor concur. Judge Rivera took no part.

2                    No. 80  
Ana Orellana,  
    Appellant,  
    v.  
Town of Carmel, et al.,  
    Respondents.

Order reversed, with costs, defendants' motion for summary judgment denied and plaintiff's cross-motion for summary judgment on the issue of liability granted. Opinion by Judge Cannataro. Chief Judge Wilson and Judges Rivera, Garcia, Singas, Troutman and Halligan concur.

4                    No. 85  
The People &c.,  
    Respondent,  
    v.  
Eric D. Sharp,  
    Appellant.

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

## MOTIONS

2                    SSD 35  
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 36  
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.

3                    Mo. No. 2024-686  
Henry E. Calabrese,  
Respondent,  
v.  
City of Albany,  
Appellant.

Motion by New York State Conference of Mayors and Municipal Officials 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. 2024-430  
In the Matter of Jude Thaddeus Danahy,  
Appellant,  
v.  
Carol Crawford,  
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2024-651  
Joseph A. Davis et al.,  
Appellants,  
v.  
Marshall & Sterling, Inc.,  
Respondent;  
NXG Insurance Agency Group, LLC,  
Appellant.

Motion by Partnership for New York City 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 33  
The People &c. ex rel. Russell DeFreitas,  
Appellant,  
v.  
Errol D. Toulon, Jr., &c.,  
Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no appeal lies as of right from the unanimous judgment of the Appellate Division absent the direct involvement of a substantial constitutional question.

2 Mo. No. 2024-410  
The People &c. ex rel. Andrew T. Ellis, &c.,  
Respondent,  
v.  
Kirk Imperati, &c.,  
Appellant.

Motion for leave to appeal granted.

2 Mo. No. 2024-393  
In the Matter of Nathaniel I.G.  
  
Administration for Children's Services,  
Respondent;  
Marilyn A.P.,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2024-664  
The People &c.,  
Respondent,  
v.  
Kenneth Garcia,  
Appellant.

Motion by The Innocence Project, 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.

4 Mo. No. 2024-412  
In the Matter of Christian Jones,  
Respondent,  
v.  
Latoya Brown,  
Appellant.

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

3 Mo. No. 2024-661  
David Katleski,  
Appellant,  
v.  
Cazenovia Golf Club, Inc.,  
Respondent,  
et al.,  
Defendants.

Motion by National Golf Club Owners 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.

4 Mo. No. 2024-326  
In the Matter of Steven L.,  
Appellant,  
v.  
State of New York,  
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2024-465  
In the Matter of Barrett LL.,  
Respondent,  
v.  
Melissa MM.,  
Appellant.  
(And Related Proceedings.)

Motion for leave to appeal denied.

3 Mo. No. 2024-646  
The People &c.,  
Respondent,  
v.  
Arthur H. Morgan Jr.,  
Appellant.

Motion for assignment of counsel granted and Steven M. Sharp, Esq., P.O. Box 1004, Albany, NY 12201 assigned as counsel to the appellant on the appeal herein.

Mo. No. 2024-255  
MTAG, &c.,  
Respondent,  
v.  
Daniel C. Brown, et al.,  
Defendants,  
Sandra Morrison,  
Appellant.

Motion for leave to appeal dismissed upon the ground that it does not lie (*see* CPLR 5602 [a]).  
Motion for a stay dismissed as academic.

2 Mo. No. 2024-183  
In the Matter of County of Nassau,  
Respondent,  
v.  
Nassau County Sheriff's Correction Officers'  
Benevolent Association, Inc.,  
Appellant.

Motion for leave to appeal denied.

Mo. No. 2024-316  
Nevada Funding, LLC,  
Respondent,  
v.  
Association 800, LLC et al.,  
Defendants,  
Shai Harris,  
Appellant.

On the Court's own motion, appeal transferred, without costs, to the Appellate Division, Fourth 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 leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain it (*see* NY Const, art VI, § 3; CPLR 5602).  
Motion for a stay dismissed as academic.

2 SSD 34  
Leaticia C. Osuagwu,  
Respondent,  
v.  
Chinonyerem O. Osuagwu,  
Appellant.

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

4 Mo. No. 2024-340  
In the Matter of Dorika S., et al.

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

Motion for leave to appeal denied.

1 Mo. No. 2024-453  
In the Matter of Tashenea J.S., &c.

Donald R.,  
Appellant;  
Catholic Guardian Services,  
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2024-665  
The People &c.,  
Respondent,  
v.  
Samuel Shaw, &c.,  
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. 2024-626  
The People &c.,  
Respondent,  
v.  
Yasif Sims,  
Appellant.

Motion for assignment of counsel granted and Noreen McCarthy, Esq., P.O. Box 756, Keene Valley, NY 12943 assigned as counsel to the appellant nunc pro tunc on the appeal herein.

2 Mo. No. 2024-654  
The People &c.,  
Respondent,  
v.  
David Vaughn,  
Appellant.

Motion by The Innocence Project, 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.

2                    Mo. No. 2024-659  
The People &c.,  
                        Respondent,  
                        v.  
David Vaughn,  
                        Appellant.

Motion by The Legal Aid Society 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.

4                    Mo. No. 2024-311  
In the Matter of Daniel T. Warren,  
                        Appellant,  
                        v.  
Planning Board of the Town of West Seneca,  
et al.,  
                        Respondents.

On the Court's own motion, appeal, insofar as taken from the Appellate Division order affirming the March 2023 Supreme Court order, dismissed, without costs, upon the ground that such order does not finally determine the action/proceeding within the meaning of the Constitution; appeal, insofar as taken from the Appellate Division order affirming the December 2022 Supreme Court order/judgment, dismissed, without costs, upon the ground that no substantial constitutional question is directly involved.

Motion, insofar as it seeks leave to appeal from the Appellate Division order affirming the March 2023 Supreme Court order, dismissed upon the ground that such order does not finally determine the action/proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.