

**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.

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.

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

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.

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

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.

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

Motion for leave to appeal denied.

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

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.

Motion for leave to appeal denied.

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

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.