

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

**Decisions**

September 9, 2021

**CASES**

No. 71  
Andy Pabel Ferreiras Veloz, &c.,  
Appellant,  
v.  
Merrick B. Garland, &c.,  
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, in the particular circumstances of this individual matter, respectfully declined.  
Chief Judge DiFiore and Judges Rivera, Fahey, Garcia, Wilson, Singas and Cannataro concur.

1                    No. 72 SSM 13  
The People &c.,  
Respondent,  
v.  
Jose Guevara,  
Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and a new trial ordered, in a memorandum.  
Chief Judge DiFiore and Judges Rivera, Fahey, Garcia, Wilson, Singas and Cannataro concur.

3                    No. 66 SSM 10  
In the Matter of Daniel Miller,  
Appellant,  
v.  
Anthony J. Annucci, &c., et al.,  
Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, and matter remitted to the Appellate Division, Third Department, for further proceedings in accordance with the memorandum herein.  
Chief Judge DiFiore and Judges Rivera, Fahey, Garcia, Wilson, Singas and Cannataro concur.

## MOTIONS

1                    Mo. No. 2021-372  
In the Matter of Angelica A., &c.,  
Appellant.

Angel A. et al.,  
Respondents;  
Administration for Children's Services,  
Respondent.

2                    Mo. No. 2021-320  
In the Matter of Francisco Acevedo,  
Appellant,

v.  
Steven A. Bender, &c., et al.,  
Respondents.

2                    Mo. No. 2021-271  
Maria-Lucia Anghel, &c.,  
Appellant,

v.  
Ruskin Moscou Faltischek, P.C., et al.,  
Respondents.

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

Motion for leave to appeal denied.  
Chief Judge DiFiore took no part.

Motion for leave to appeal dismissed upon the  
ground that the orders sought to be appealed from do  
not finally determine the action within the meaning  
of the Constitution.

4 Mo. No. 2021-489  
In the Matter of Deangelo B.-K. et al.

Steuben County Department of Social  
Services,

Respondent;

Tia K.,

Respondent,

Greggory L.,

Appellant.

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In the Matter of Gakai L. et al.

Steuben County Department of Social  
Services,

Respondent;

Tia K.,

Respondent,

Greggory L.,

Appellant.

3 Mo. No. 2021-236

Anthony Barnes,

Appellant,

v.

State of New York,

Respondent.

4 Mo. No. 2021-430  
In the Matter of Elliot Allen Bazzano,

Respondent,

v.

Emily Pollokoff,

Appellant.

1 Mo. No. 2021-259

Valentin Benitez, &c.,

Appellant,

v.

City of New York, et al.,

Respondents.

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

Motion for poor person relief dismissed as academic.

Motion for leave to appeal denied.

Motion for poor person relief dismissed as academic.

Motion for leave to appeal dismissed upon the  
ground that the issues presented have become moot.  
Motion for poor person relief dismissed as academic.

Motion for leave to appeal denied.

2                    SSD 39  
In the Matter of Matthew I. Brennan,  
                         Appellant,  
                         v.  
Kevin Hobbs, &c., et al.,  
                         Respondents.

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

4                    Mo. No. 2021-314  
Christiana T. Brenon, &c.,  
                         Appellant,  
                         v.  
Asbestos Corporation, Ltd., et al.,  
                         Defendants,  
Special Electric Company, Inc.,  
                         Respondent.  
(And Two Other Related Actions.)

Motion for leave to appeal denied.

2                    Mo. No. 2021-497  
In the Matter of Trevor Burns,  
                         Appellant,  
                         v.  
Brenda Cooke, &c., et al.,  
                         Respondents.

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

1                    Mo. No. 2021-449  
In the Matter of Melanie C.,  
                         Respondent,  
                         v.  
Carlo B.,  
                         Appellant.

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

1                    Mo. No. 2021-280  
Cambridge Investments LLC,  
                         Appellant,  
                         v.  
Prophecy Asset Management, LP,  
                         Respondent.

Motion for leave to appeal denied.  
Chief Judge DiFiore took no part.

2                    SSD 44  
In the Matter of D&G Construction Dean  
Gonzalez, LLC, et al.,  
                  Appellants,  
          v.  
Julian T. Capetola, &c., et al.,  
                  Respondents.

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

4                    Mo. No. 2021-301  
Michael J. Carlson, &c.,  
                  Appellant,  
          v.  
American International Group, Inc., et al.,  
                  Respondents.

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

1                    Mo. No. 2021-417  
Jenie M. Chavez Turcios et al.,  
                  Appellants,  
          v.  
New York City Health and Hospitals  
Corporation,  
                  Respondent.

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

1                    Mo. No. 2021-342  
In the Matter of Committee for  
Environmentally Sound Development et al.,  
                  Appellants,  
          v.  
Amsterdam Avenue Redevelopment  
Associates LLC, et al.,  
                  Respondents.

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

1                    Mo. No. 2021-407  
In the Matter of Committee for  
Environmentally Sound Development et al.,  
                  Appellants,  
          v.  
Amsterdam Avenue Redevelopment  
Associates LLC, et al.,  
                  Respondents.

Motion by City Club of New York, et al. for leave to appear amici curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.

1                    Mo. No. 2021-435  
In the Matter of Committee for  
Environmentally Sound Development et al.,  
                  Appellants,  
                  v.  
Amsterdam Avenue Redevelopment  
Associates LLC, et al.,  
                  Respondents.

Motion by Sierra Club, Inc., et al. for leave to appear  
amici curiae on the motion for leave to appeal herein  
granted and the brief is accepted as filed.

3                    Mo. No. 2021-713  
The People &c. ex rel. Justin Curran,  
                  Appellant,  
                  v.  
William F. Keyser, &c.,  
                  Respondent.

Motion for leave to appeal denied.

4                    Mo. No. 2021-172  
In the Matter of John Doe 1, et al.,  
                  Petitioners,  
John Doe 3, et al.,  
                  Appellants,  
                  v.  
Syracuse University,  
                  Respondent.

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

4                    Mo. No. 2021-375  
In the Matter of John Doe 1, et al.,  
                  Petitioners,  
John Doe 3, et al.,  
                  Appellants,  
                  v.  
Syracuse University,  
                  Respondents.

Motion by Foundation for Individual Rights in  
Education for leave to appear amicus curiae on the  
motion for leave to appeal herein granted and the  
brief is accepted as filed.

1 Mo. No. 2021-554  
In the Matter of Steven R. Donziger, &c.

Attorney Grievance Committee for the First  
Judicial Department,  
Respondent;  
Steven R. Donziger,  
Appellant.

Motion for reargument of motion for leave to appeal  
denied.

Judges Singas and Cannataro took no part.

1 Mo. No. 2021-386  
In the Matter of Empire Center for Public  
Policy,

Appellant,  
v.  
New York City Police Pension Fund,  
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2021-373  
In the Matter of Jerome G.,  
Appellant;  
Erie County Attorney,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2021-254  
Ysrael Gomez, &c.,  
Appellant,  
v.  
New York City Transit Authority,  
Respondent.  
(And Another Action.)

Motion for leave to appeal denied.

4 Mo. No. 2021-297  
Kori Grasha,  
Respondent,  
v.  
Town of Amherst,  
Appellant.

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

4                   SSD 40  
In the Matter of Yvonne Gray,  
    Respondent,  
    v.  
R. Anthony LaFountain, &c. et al.,  
    Appellants.

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. 2021-278  
In the Matter of the Claim of Traci Haner,  
    Respondent,  
    v.  
Niagara County Sheriff's Dept. et al.,  
    Appellants.  
Workers' Compensation Board,  
    Respondent.

Motion for leave to appeal denied.

3                   Mo. No. 2021-350  
In the Matter of Tammy A. Hepps, et al.,  
    Appellants,  
    v.  
New York State Department of Health,  
    Respondent.

Motion, insofar as it seeks leave to appeal from the Appellate Division order denying reargument or leave to appeal, dismissed upon the ground that such order does not finally determine the proceeding within the meaning of the Constitution; motion, insofar as treated as seeking leave to appeal from the Appellate Division order of affirmance, otherwise denied.

1                   Mo. No. 2021-325  
In the Matter of James Herring,  
    Appellant,  
    v.  
James P. O'Neill, &c., et al.,  
    Respondents.

Motion for leave to appeal denied.



3                    SSD 33  
Michael Hilgreen,  
    Plaintiff,  
    v.  
Pollard Excavating, Inc., et al.,  
    Defendants,  
John J. Pollard III, et al., &c.,  
    Defendants/Third-Party  
    Appellants;  
Central Mutual Insurance Company,  
    Third-Party Respondent,  
et al.,  
    Third-Party Defendants.

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.

2                    Mo. No. 2021-170  
The People &c.,  
    Respondent,  
    v.  
Theodore D. Howard,  
    Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2021-296  
Dora Howell,  
    Appellant,  
    v.  
City of New York, et al.,  
    Respondents,  
et al.,  
    Defendant.

Motion for leave to appeal granted.

3                    Mo. No. 2021-302  
In the Matter of City of Ithaca, et al.,  
    Appellants,  
    v.  
New York State Department of  
Environmental Conservation, et al.,  
    Respondents.

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

1 Mo. No. 2021-553  
In the Matter of The Jewish Press, Inc.,  
Appellant,  
v.  
New York City Police Department,  
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2021-355  
In the Matter of Cadus Corp. Stockholders  
Litigation.

Motion for leave to appeal denied.

Emily Kahn-Freedman et al.,  
Appellants,  
v.  
Cadus Corporation et al.,  
Respondents.

3 SSD 52  
In the Matter of the Estate of Patricia A. King,  
&c.

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.

Rachel King,  
Respondent;  
Jared King,  
Appellant.

SSD 42  
Kitty Holding Corp.,  
Respondent,  
v.  
Brian Corriette, &c.,  
Appellant.

Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that no appeal lies in this civil action from the order of the Appellate Term (*see* NY Const, art VI, § 3[b]; CPLR 5601).

1 Mo. No. 2021-506  
Lindenwood Village, Section C, Cooperative  
Corp.,  
Appellant,  
v.  
Seth Denenberg, et al.,  
Respondents.

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

1                    SSD 51  
Nella Manko,  
    Appellant,  
    v.  
Dr. Dana Mannor, et al.,  
    Respondents,  
Lenox Hill Hospital, &c. et al.,  
    Defendants.

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Nella Manko,  
    Appellant,  
    v.  
Dana Mannor, et al.,  
    Respondents,  
"Anesthesiologist" (a fictitious name), et al.,  
    Defendants.

1                    Mo. No. 2021-426  
Nella Manko,  
    Appellant,  
    v.  
Dr. Dana Mannor, et al.,  
    Respondents,  
Lenox Hill Hospital, &c. et al.,  
    Defendants.

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Nella Manko,  
    Appellant,  
    v.  
Dana Mannor, et al.,  
    Respondents,  
"Anesthesiologist" (a fictitious name), et al.,  
    Defendants.

2                    SSD 35  
Nella Manko,  
    Appellant,  
    v.  
Shorefront Apartments, LLC,  
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 actions within the meaning of the Constitution.  
Chief Judge DiFiore took no part.

Motion for reconsideration of this Court's March 25, 2021 dismissal order denied.  
Motion for poor person relief dismissed as academic.  
Chief Judge DiFiore took no part.

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.  
Chief Judge DiFiore took no part.

1 Mo. No. 2021-485  
In the Matter of Krystal N. et al.

Juan R.,  
Appellant;  
Administration for Children's Services,  
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2021-356  
NYCTL 1998-2 Trust et al.,  
Respondents,  
v.  
Bethelite Community Baptist Church, &c.,  
Appellant,  
et al.,  
Defendants.

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

1 Mo. No. 2021-261  
Adam Plotch, &c.,  
Appellant,  
v.  
435 East 85th Street Tenants Corp., et al.,  
Respondents,  
et al.,  
Defendant.

Motion for leave to appeal denied.

1 Mo. No. 2021-354  
In the Matter of Brian Quire,  
Appellant,  
v.  
City of New York et al.,  
Respondents.

Motion for leave to appeal denied.

2                    Mo. No. 2021-537  
In the Matter of Yon Renee Woodson  
Awoonor Renner,  
    Appellant,  
    v.  
Ernest Awoonor Renner,  
    Respondent.  
(And Other Proceedings.)

Motion for leave to appeal denied.

2                    Mo. No. 2021-365  
The People &c.,  
    Appellant,  
    v.  
Fernando Romualdo,  
    Respondent.

Motion to dismiss appeal denied.

1                    Mo. No. 2021-294  
The People &c.,  
    Respondent,  
    v.  
Emanuel Sanchez,  
    Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2021-267  
Lynne Schalman, &c.,  
    Appellant,  
    v.  
Aquatic Recreational Management, Inc., et  
al.,  
    Respondents,  
et al.,  
    Defendants.

Motion for leave to appeal denied.

1                    SSD 48  
Lillian F. Schwartz,  
    Appellant,  
    v.  
A. Michael Noll et al.,  
    Respondents.

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

2                    SSD 43  
Sohn Enterprises, Inc.,  
    Respondent,  
    v.  
D&G Construction Dean Gonzalez, LLC, et  
al.,  
    Appellants.

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.

1                    SSD 41  
Jean-Pascal Simon,  
    Appellant,  
    v.  
FrancInvest, S.A., et al.,  
    Nominal Defendants,  
French American Surgery Center, Inc., et al.,  
    Respondents,  
et al.,  
    Defendants.

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.

2                    SSD 46  
The People &c.,  
    Respondent,  
    v.  
Mark Smith,  
    Appellant.

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

3                    Mo. No. 2021-334  
In the Matter of David R. Suhr,  
    Appellant,  
    v.  
New York State Department of Civil Service,  
    Respondent.

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

1                    Mo. No. 2021-305  
The People &c. ex rel. Pamela Roth, on  
behalf of Roy Taylor,  
    Appellant,  
    v.  
Cynthia Brann, &c.,  
    Respondent.

Motion for reargument denied.  
Judges Singas and Cannataro took no part.

2                   SSD 49  
In the Matter of Teamsters Local 445,  
    Respondent,  
    v.  
Town of Monroe,  
    Appellant.

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 47  
U.S. Bank National Association, &c.,  
    Respondent,  
    v.  
Odette Harris,  
    Defendant,  
Walter Iwachiw,  
    Appellant.  
(And Three Other Actions.)

Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that it does not lie.

2                   Mo. No. 2021-465  
In the Matter of Talbot V.,  
    Appellant,  
    v.  
Kingsboro Psychiatric Center,  
    Respondent.

Motion for leave to appeal granted.

1                   Mo. No. 2021-367  
The People &c.,  
    Respondent,  
    v.  
Matthew Williams,  
    Appellant.

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

3                   Mo. No. 2021-420  
The People &c. ex rel. Jeffrey Wilson,  
    Appellant,  
    v.  
M. Rockwood, &c.,  
    Respondent.

Motion for reargument of motion for leave to appeal denied.  
Judges Singas and Cannataro took no part.

3                    Mo. No. 2021-395  
In the Matter of Lorna Y.,  
                        Respondent,  
                        v.  
Jeffrey Z.,  
                        Appellant.  
(And Four Other Related Proceedings.)

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