

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

**Decisions**

November 23, 2021

**CASES**

2                    No. 62  
The People &c.,  
    Appellant,  
    v.  
Donovan Buyund,  
    Respondent.

Order insofar as appealed from reversed and case remitted to the Appellate Division, Second Department, for further proceedings in accordance with the opinion herein.  
Opinion by Judge Cannataro.  
Chief Judge DiFiore and Judges Fahey, Garcia and Singas concur.  
Judge Wilson dissents in an opinion, in which Judge Rivera concurs.

4                    No. 86 SSM 22  
The People &c.,  
    Respondent,  
    v.  
Kevin A. Dukes,  
    Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, without costs. Defendant's argument that portions of the presentence report were inadmissible and should not have been considered is unpreserved for our review.  
Chief Judge DiFiore and Judges Fahey, Garcia, Singas and Cannataro concur.  
Judges Rivera and Wilson dissent for reasons stated in the dissenting memorandum at the Appellate Division (186 AD3d 1073, 1074-1076 [2020] [Peradotto, J.P. and Lindley, J. dissenting]).

1                    No. 61  
J.P. Morgan Securities Inc.,  
et al.,  
    Appellants,  
    v.  
Vigilant Insurance Company,  
et al.,  
    Respondents.

Judgment insofar as appealed from and so much of the Appellate Division order brought up for review reversed, with costs, and case remitted to the Appellate Division, First Department, for further proceedings in accordance with the opinion herein.  
Opinion by Chief Judge DiFiore.  
Judges Fahey, Garcia, Wilson, Singas and Cannataro concur.  
Judge Rivera dissents and votes to affirm in an opinion.

3                    No. 65  
In the Matter of the Claim of Kristen Rexford,  
&c.,  
                    Claimant,  
                    v.  
Gould Erectors & Riggers, Inc., et al.,  
                    Respondents,  
Special Fund for Reopened Cases,  
                    Appellant.  
Workers' Compensation Board,  
                    Appellant.

Order reversed, with costs, and decision of the  
Workers' Compensation Board reinstated.  
Opinion by Judge Rivera.  
Chief Judge DiFiore and Judges Wilson, Singas and  
Cannataro concur.  
Judge Garcia dissents and votes to affirm in an  
opinion, in which Judge Fahey concurs.

3                    No. 64  
In the Matter of the Claim of Frances  
Verneau,  
                    Claimant,  
                    v.  
Consolidated Edison Co. of New York, Inc.,  
et al.,  
                    Respondents,  
Special Fund for Reopened Cases,  
                    Appellant.  
Workers' Compensation Board,  
                    Appellant.

Order reversed, with costs, and decision of the  
Workers' Compensation Board reinstated.  
Opinion by Judge Rivera.  
Chief Judge DiFiore and Judges Wilson, Singas and  
Cannataro concur.  
Judge Garcia dissents and votes to affirm in an  
opinion, in which Judge Fahey concurs.

1                    No. 63  
The People &c.,  
                    Respondent,  
                    v.  
Tyrone Wortham,  
                    Appellant.

Order reversed and case remitted to Supreme Court,  
New York County, for further proceedings in  
accordance with the opinion herein.  
Opinion by Judge Fahey.  
Chief Judge DiFiore and Judges Garcia, Singas and  
Cannataro concur.  
Judge Rivera dissents in part in an opinion, in which  
Judge Wilson concurs in a separate dissenting  
opinion.

## MOTIONS

1                    Mo. No. 2021-588  
34-06 73, LLC, et al.,  
    Respondents,  
    v.  
Seneca Insurance Company,  
    Appellant.

Motion for leave to appeal granted.

1                    Mo. No. 2021-667  
The People &c.,  
    Respondent,  
    v.  
Ramon Acevedo,  
    Appellant.

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

2                    Mo. No. 2021-850  
Susan Aranoff,  
    Respondent,  
    v.  
Gerald Aranoff,  
    Appellant.

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

2                    Mo. No. 2021-681  
In the Matter of Myrna Bailenson, et al.,  
    Respondents,  
    v.  
Board of Education of the Chappaqua Central  
School District, et al.,  
    Appellants.

Motion for leave to appeal denied.

3 Mo. No. 2021-689  
In the Matter of Best Payphones, Inc.,  
Appellant,

v.

Public Service Commission of the State of  
New York et al.,

Respondents.

(And Two Related Proceedings.)  
-----

In the Matter of Independent Payphone  
Association of New York, Inc., &c., et al.,  
Appellants,

v.

Public Service Commission of the State of  
New York et al.,

Respondents.

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

2 Mo. No. 2021-702

The People &c.,  
Respondent,

v.

Michael Blount,  
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2021-650  
In the Matter of Broach & Stulberg, LLP,  
Appellant,

v.

New York State Department of Labor,  
Respondent.

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

4 Mo. No. 2021-640

In the Matter of Joel Brown,  
Appellant,

v.

Anthony Annucci, &c.,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2021-729  
The People &c.,  
Respondent,  
v.  
Robert Brown,  
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2021-683  
Casita, L.P., &c.,  
Respondent,  
v.  
Robert V. Glaser, et al.,  
Appellants,  
et al.,  
Nominal Defendant.

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

3 Mo. No. 2021-642  
In the Matter of the Claim of Celia Clancy,  
Respondent,  
v.  
Park Line Asphalt Maintenance et al.,  
Appellants.  
Workers' Compensation Board,  
Respondent.

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.

4 Mo. No. 2021-661  
Colling Enterprises, LLC,  
Appellant,  
v.  
United Frontier Mutual Insurance Company,  
Respondent.

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

1 Mo. No. 2021-584  
Curacao Oil N.V.,  
Appellant,  
v.  
Trafigura Pte. Ltd.,  
Respondent.

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

3                    Mo. No. 2021-658  
In the Matter of Ruthanne Dalotto,  
                  Appellant,  
          v.  
New York State Department of Labor, et al.,  
                  Respondents.

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

4                    Mo. No. 2021-839  
In the Matter of Andrew DeWolf,  
                  Appellant,  
          v.  
Jamie Syrett, &c., et al.,  
                  Respondents.

Motion for reconsideration of this Court's April 29, 2021 dismissal orders dismissed as untimely (*see* Rules of Ct of Appeals [22 NYCRR] § 500.24 [b]). Motion for other relief dismissed as academic. Judges Singas and Cannataro took no part.

-----  
In the Matter of Andrew DeWolf,  
                  Appellant,  
          v.  
Wayne County, New York,  
                  Respondent.

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

2                    Mo. No. 2021-717  
Federal National Mortgage Association, &c.,  
                  Appellant,  
          v.  
Francis M. Sajdak, &c.,  
                  Respondent,  
et al.,  
                  Defendants.

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

1                    Mo. No. 2021-715  
Shalaine Y. Jones,  
                  Appellant,  
          v.  
FEGS/WeCare-Human Resources, NYC,  
                  Respondent.

1 Mo. No. 2021-719  
The People &c.,  
Respondent,  
v.  
Robert Jones,  
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2021-675  
Kato International LLC,  
Respondent,  
v.  
Gerard Fox Law, P.C. et al.,  
Appellants.

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

4 Mo. No. 2021-738  
The People &c.,  
Respondent,  
v.  
Roger A. Kingdollar, &c.,  
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2021-679  
Carmine LiParulo et al.,  
Appellants,  
v.  
New York City Health and Hospitals  
Corporation et al.,  
Respondents.

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

2 Mo. No. 2021-853  
Nella Manko,  
Appellant,  
v.  
Shorefront Apartments, LLC,  
et al.,  
Respondents.

Motion for reconsideration of this Court's September 9, 2021 dismissal order denied.  
Motion for poor person relief dismissed as academic.  
Chief Judge DiFiore took no part.

2 Mo. No. 2021-653  
Magda Mansour-Mohamed,  
Appellant,  
v.  
State of New York,  
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2021-688  
Josh Margulies,  
Appellant,  
v.  
USAA Casualty Insurance Co.,  
Respondent.

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

2 Mo. No. 2021-699  
The People &c.,  
Respondent,  
v.  
Chantia Marshall,  
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2021-696  
In the Matter of Howard Muser, &c.  
Adam Brook,  
Appellant,  
v.  
Howard Muser,  
Respondent.

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

1 Mo. No. 2021-678  
Nader & Sons, LLC, et al.,  
Respondents,  
v.  
Homayoun Namvar, &c.,  
Appellant.

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

1 Mo. No. 2021-674  
In the Matter of Neighbors United Below  
Canal, et al.,  
Appellants,  
v.  
Bill DeBlasio, &c., et al.,  
Respondents.

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

4 Mo. No. 2021-663  
In the Matter of Arbitration Between Niagara  
Frontier Transportation Authority,  
Appellant;  
NFTA Police Benevolent Association,  
Respondent.

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

2 Mo. No. 2021-654  
The People &c.,  
Respondent,  
v.  
Ronald Nicholson,  
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2021-656  
In the Matter of the People &c. et al.,  
Respondents,  
v.  
Northern Leasing Systems, Inc., et al.,  
Appellants,  
Joseph I. Sussman, et al.,  
Appellants.

Motions 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.  
Chief Judge DiFiore and Judge Rivera took no part.

1 Mo. No. 2021-673  
In the Matter of the People &c. et al.,  
Respondents,  
v.  
Northern Leasing Systems, Inc., et al.,  
Appellants,  
Joseph I. Sussman, et al.,  
Appellants.

Motion by Small Business Finance Association for leave to appear amicus curiae on the motions for leave to appeal herein granted and the brief is accepted as filed.  
Chief Judge DiFiore and Judge Rivera took no part.

1                    Mo. No. 2021-676  
In the Matter of the People &c. et al.,  
    Respondents,  
    v.  
Northern Leasing Systems, Inc., et al.,  
    Appellants,  
Joseph I. Sussman, et al.,  
    Appellants.

Motion by New York State Latino Restaurant, Bar  
and Lounge Association to appear amicus curiae on  
the motions for leave to appeal herein granted and  
the brief is accepted as filed.  
Chief Judge DiFiore and Judge Rivera took no part.

1                    Mo. No. 2021-710  
In the Matter of the People &c. et al.,  
    Respondents,  
    v.  
Northern Leasing Systems, Inc., et al.,  
    Appellants,  
Joseph I. Sussman, et al.,  
    Appellants.

Motion by Alta Group LLC to appear amicus curiae  
on the motions for leave to appeal herein granted and  
the brief is accepted as filed.  
Chief Judge DiFiore and Judge Rivera took no part.

3                    Mo. No. 2021-711  
The People &c.,  
    Respondent,  
    v.  
Thomas Pidel,  
    Appellant.

Motion for leave to appeal denied.

4                    Mo. No. 2021-690  
In the Matter of Rochester Police Locust  
Club, Inc., et al.,  
    Respondents,  
    v.  
City of Rochester, et al.,  
    Respondents,  
Council of City of Rochester,  
    Appellant.

Motion for leave to appeal granted.

4 Mo. No. 2021-744  
In the Matter of Rochester Police Locust  
Club, Inc., et al.,  
Respondents,  
v.  
City of Rochester, et al.,  
Respondents,  
Council of City of Rochester,  
Appellant.

Motion by City of Kingston for leave to appear  
amicus curiae on the motion for leave to appeal  
herein granted and the proposed brief is accepted as  
filed.

2 Mo. No. 2021-703  
The People &c.,  
Respondent,  
v.  
Jonathan Roelofsen,  
Appellant.

Motion for leave to appeal denied.

Mo. No. 2021-697  
Richard Rosario,  
Appellant,  
v.  
State of New York,  
Respondent.

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

4 Mo. No. 2021-670  
The People &c.,  
Respondent,  
v.  
Jermaine H. Simmons,  
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2021-657  
The People &c.,  
Respondent,  
v.  
Michael J. Stack,  
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2021-693  
Roy Taylor,  
Appellant,  
v.  
NYPD Property Clerk, et al.,  
Respondents.

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

3 Mo. No. 2021-680  
In the Matter of the Claim of Thomas P. Thorndike,  
Respondent,  
v.  
Penn Mutual Life Insurance Company,  
Appellant.  
Commissioner of Labor,  
Respondent.

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.

1 Mo. No. 2021-662  
In the Matter of Maria T. Vullo, &c.,  
Respondent,  
v.  
Park Insurance Company,  
Appellant.

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

1 Mo. No. 2021-765  
In the Matter of Maria T. Vullo, &c.,  
Respondent,  
v.  
Park Insurance Company,  
Appellant.

Motion by Gregory V. Serio for leave to appear amicus curiae on the motion for leave to appeal herein granted and the proposed brief is accepted as filed.

1 Mo. No. 2021-810  
In the Matter of Diane Word,  
Appellant,  
v.  
Dianne T. Renwick, &c., et al.,  
Respondents.

Motion for reconsideration of this Court's September 2, 2021 dismissal order denied.  
Chief Judge DiFiore took no part.

1                    Mo. No. 2021-647  
Haim Zitman,  
    Appellant,  
    v.  
Sutton LLC, et al.,  
    Respondents.

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