

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

**Decisions**

January 6, 2022

**CASES**

4                    No. 20 SSM 26  
Dorothy Reames, &c.,  
    Appellant,  
    v.  
State of New York et al.,  
    Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, in a memorandum.  
Chief Judge DiFiore and Judges Rivera, Garcia, Wilson, Singas and Cannataro concur.

3                    No. 21 SSM 31  
The People &c.,  
    Respondent,  
    v.  
Joseph Sposito,  
    Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum.  
Chief Judge DiFiore and Judges Rivera, Garcia, Singas and Cannataro concur.  
Judge Wilson dissents and votes to reverse and order a new trial, for reasons stated in that portion of the dissenting opinion of Justice John P. Colangelo at the Appellate Division as concluded that trial counsel's failures to consult or call expert witnesses deprived Mr. Sposito of meaningful representation (193 AD3d 1236, 1243-1246 [2021] [Colangelo, J. dissenting]).

**MOTIONS**

4                    Mo. No. 2021-714  
Jessie J. Barnes,  
                  Appellant,  
          v.  
State of New York,  
                  Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution. 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. Motion for other relief dismissed upon the ground that this Court does not have jurisdiction to entertain it (*see* NY Const, art VI, § 3).

2                    Mo. No. 2021-649  
Bayview Loan Servicing, LLC,  
                  Respondent,  
          v.  
City of Middletown,  
                  Appellant,  
  
et al.,  
                  Defendants.

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

1                    Mo. No. 2021-760  
Robert Budwilowitz,  
    Appellant,  
    v.  
Marc Nichols Associates et al.,  
    Respondents.

On the Court's own motion, appeal, insofar as taken from the July 2021 Appellate Division order, dismissed, without costs, upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution; appeal, insofar as taken from the June 2021 Appellate Division order, dismissed, without costs, upon the ground that no appeal lies from the unanimous order of the Appellate Division absent the direct involvement of a substantial constitutional question.  
Motion, insofar as it seeks leave to appeal from the July 2021 Appellate Division order, dismissed upon the ground that such order does not finally determine the action within the meaning of the Constitution; motion, insofar as treated as seeking leave to appeal from the June 2021 Appellate Division order, otherwise denied.

3                    Mo. No. 2021-746  
The People &c. ex rel. Rodney Coward,  
    Appellant,  
    v.  
D. McIntosh, &c.,  
    Respondent.

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

2                    Mo. No. 2021-750  
The People &c.,  
    Respondent,  
    v.  
Webster Daniel,  
    Appellant.

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

2 Mo. No. 2021-648  
Mark Delacorte, &c.,  
Plaintiff,  
v.  
William Luyanda, et al.,  
Defendants,  
Wells Fargo Bank, N.A.,  
Respondent,  
City of Middletown,  
Appellant.  
(And a Third-Party Action.)

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

2 Mo. No. 2021-666  
John B. Ellison,  
Appellant,  
v.  
Chartis Claims, Inc., et al.,  
Respondents.

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

2 Mo. No. 2021-1009  
The People &c.,  
Respondent,  
v.  
Deon Ewers,  
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.  
Judge Singas took no part.

Mo. No. 2022-17  
Jesus Ferreira,  
Appellant,  
v.  
City of Binghamton et al.,  
Respondents.

Motion by New York State Conference of Mayors and Municipal Officials et al. for leave to appear amici curiae on consideration of the certified question herein granted only 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.

Mo. No. 2022-33

Jesus Ferreira,  
Appellant,  
v.  
City of Binghamton et al.,  
Respondents.

Motion by New York City Bar Association for leave to appear amicus curiae on consideration of the certified question herein granted only 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.

Mo. No. 2022-35

Jesus Ferreira,  
Appellant,  
v.  
City of Binghamton et al.,  
Respondents.

Motion by New York County Lawyers Association et al. for leave to appear amici curiae on consideration of the certified question herein granted only 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.

Mo. No. 2022-56

Jesus Ferreira,  
Appellant,  
v.  
City of Binghamton et al.,  
Respondents.

Motion by City of New York for leave to file a brief amicus curiae on consideration of the certified question 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. 2021-685  
In the Matter of the Claim of Daniel Fiato,  
Appellant,  
v.  
New York State Department of  
Transportation et al.,  
Respondents.  
Workers' Compensation Board,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2021-770  
In the Matter of Joseph I. Harrison, &c.

Joseph I. Harrison,  
Appellant;  
Grievance Committee for the Second,  
Eleventh, and Thirteenth Judicial Districts,  
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2021-665

Laurie Kadah,  
Respondent,  
v.  
Mayada Kadah, &c., et al.,  
Respondents,  
Andrew Kadah,  
Appellant,  
et al.,  
Defendants.

Motion for leave to appeal denied.

2 Mo. No. 2021-772  
In the Matter of Feng Li, a suspended  
attorney.

Grievance Committee for the Ninth Judicial  
District,  
Respondent;  
Feng Li,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2021-698

Paul G. Lowell, et al.,  
Appellants,  
v.  
Judith Esther Flom, &c., et al.,  
Respondents.

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

1                    Mo. No. 2021-716  
Parinaz Pakniat,  
    Appellant,  
    v.  
Gianni Moor et al.,  
    Respondents.

Motion for leave to appeal denied.

2                    Mo. No. 2021-671  
In the Matter of Jeffrey Parker, &c.,  
    Respondent,  
    v.  
Rhonda Parker,  
    Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2021-639  
In the Matter of Cara M. Piliero,  
    Appellant,  
    v.  
Eastchester Fire District,  
    Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2021-1022  
The People &c.,  
    Respondent,  
    v.  
Jeffrey Rodriquez,  
    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. 2021-753  
Rome Gas, Inc.,  
    Appellant,  
    v.  
Fastrac Properties I, LLC,  
    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                   SSD 1  
In the Matter of Owolabi Salis,  
                  Appellant,  
          v.  
Eric Prus, &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 DiFiore took no part.

1                   Mo. No. 2021-725  
James Sorge,  
                  Appellant,  
          v.  
Sharp Management Corporation, et al.,  
                  Respondents,  
et al.,  
                  Defendants.

Motion for leave to appeal denied.

3                   Mo. No. 2021-730  
In the Matter of Andrew Bennett Spark, &c.  
  
Andrew Bennett Spark,  
                  Appellant;  
Attorney Grievance Committee for the Third  
Judicial Department,  
                  Respondent.

Motion for leave to appeal denied.

1                   Mo. No. 2021-686  
THTML LLC,  
                  Appellant,  
          v.  
Trust for Architectural Easements, &c.,  
                  Respondent.

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

2                   Mo. No. 2021-957  
The People &c.,  
                  Respondent,  
          v.  
Harold Tindal,  
                  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. 2021-755  
U.S. Bank National Association, &c.,  
    Respondent,  
    v.  
Walter Russell et al.,  
    Appellants,  
et al.,  
    Defendants.

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.

1                    Mo. No. 2022-36  
U.S. Bank National Association, &c.,  
    Respondent,  
    v.  
DLJ Mortgage Capital, Inc.,  
    Appellant.

Motion by CXA-13 Corporation 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.  
Judge Wilson took no part.

4                    Mo. No. 2021-1025  
The People &c.,  
    Respondent,  
    v.  
Christopher J. Weber,  
    Appellant.

Motion for poor person relief granted.