

State of New York
Court of Appeals

Decisions

January 9, 2025

CASE

3 No. 108
The People &c.,
 Respondent,
 v.
Jason Brisman,
 Appellant.

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

MOTIONS

3 Mo. No. 2024-351
In the Matter of the Claim of Steven Almino,
 Appellant.
New York State Department of Corrections
and Community Supervision,
 Respondent.
Commissioner of Labor,
 Respondent.
(And Four Other Related Claims.)

Motion, insofar as it seeks leave to appeal as against the Commissioner of Labor, dismissed as untimely (*see* CPLR 5513 [b]); motion for leave to appeal otherwise granted.

1 Mo. No. 2024-494
Virginia Arias et al.,
 Appellants,
 v.
John Vecchione, DDS et al.,
 Respondents,
et al.,
 Defendants.

Motion, insofar as it seeks leave to appeal as against defendant John Vecchione, DDS, dismissed as untimely (*see* CPLR 5513 [b]); motion for leave to appeal otherwise denied.

4 Mo. No. 2024-549
The People &c.,
 Respondent,
 v.
Michael A. Balentine,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2024-520
George Borrello, &c., et al.,
 Appellants,
 v.
Kathleen C. Hochul, &c., et al.,
 Respondents.

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

3 Mo. No. 2024-260
In the Matter of the Claim of Bernard
Bruyere,
 Appellant.
New York State Department of Corrections
and Community Supervision,
 Respondent.
Commissioner of Labor,
 Respondent.
(And Three Other Related Claims.)

Motion for leave to appeal granted.

1 Mo. No. 2024-574
In the Matter of Conrad Buckle,
 Appellant,
For the Appointment of a Guardian for J.C.,
&c.

Motion for leave to appeal denied.

1 Mo. No. 2024-836
Brian Burrows, et al.,
 Appellants,
 v.
75-25 153rd Street, LLC,
 Respondent.

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.

1 Mo. No. 2024-841
Brian Burrows, et al.,
 Appellants,
 v.
75-25 153rd Street, LLC,
 Respondent.

Motion by New York Apartment Association 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.

1 Mo. No. 2025-16
Brian Burrows, et al.,
 Appellants,
 v.
75-25 153rd Street, LLC,
 Respondent.

Motion by Tenant Voices et al. for leave to file a
brief amici curiae 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. 2024-564
In the Matter of the Claim of Mike H.
Carmody,
Appellant.
Commissioner of Labor,
Respondent.

Motion for leave to appeal granted.

3 Mo. No. 2024-847
Andrew M. Cuomo,
Respondent,
v.
New York State Commission on Ethics and
Lobbying in Government,
Appellant.

Motion by Elena Ruth Sassower, insofar as it seeks 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"]); motion otherwise denied.
Chief Judge Wilson and Judge Cannataro took no part.

3 Mo. No. 2024-338
In the Matter of the Claim of Peter Dixon-
Domines,
Appellant.
New York State Department of Corrections
and Community Supervision,
Respondent.
Commissioner of Labor,
Respondent.

Motion for leave to appeal granted.

3 Mo. No. 2024-336
In the Matter of the Claim of James Dunn Jr.,
Appellant.
New York State Department of Corrections
and Community Supervision,
Respondent.
Commissioner of Labor,
Respondent.
(And Two Other Related Claims.)

Motion for leave to appeal granted.

1 Mo. No. 2024-833
Ezrasons, Inc., &c.,
 Appellant,
 v.
Sir Nigel Rudd, et al.,
 Respondents,
Barclays PLC,
 Nominal Defendant.

Motion by Charles K. Whitehead, et al. for leave to appear 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.
Judge Garcia took no part.

3 SSD 48
In the Matter of Flair Beverages Corp.,
 Appellant,
 v.
New York State Tax Appeals Tribunal et al.,
 Respondents.

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

 Mo. No. 2024-839
In the Matter of Hon. Erin P. Gall, a Justice of the Supreme Court, Fifth Judicial District, Oneida County.

Motion to withdraw request for review granted.
Judge Rivera took no part.

Erin P. Gall,
 Petitioner;
New York State Commission on Judicial Conduct,
 Respondent.

1 Mo. No. 2024-846
Glen Oaks Village Owners, Inc., et al.,
 Respondents,
 v.
City of New York, et al.,
 Appellants.

Motion by Sabin Center for Climate Change Law 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. 2024-610
In the Matter of Daniel J.,
Appellant,
v.
State of New York et al.,
Respondents.

Motion for leave to appeal denied.
Motion for financial relief dismissed as academic.
Judge Troutman took no part.

4 Mo. No. 2024-536
Tammy L. Kelly et al., &c.,
Respondents,
v.
Nicholas J. Prohaska,
Defendant,
Snap-On Credit LLC,
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. 2024-547
In the Matter of Michael N. Kelsey,
Appellant,
v.
V. Kemp, &c., et al.,
Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2024-339
In the Matter of the Claim of Victor
Klosterman,
Appellant.
New York State Department of Corrections
and Community Supervision,
Respondent.
Commissioner of Labor,
Respondent.
(And Another Related Claim.)

Motion for leave to appeal granted.

1 Mo. No. 2024-530
Nabil Kotbi,
Respondent,
v.
Farid Najjar,
Appellant.

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

3 Mo. No. 2024-337
In the Matter of the Claim of Kyle Lamphier,
Appellant.
New York State Department of Corrections
and Community Supervision,
Respondent.
Commissioner of Labor,
Respondent.

Motion for leave to appeal granted.

Mo. No. 2024-815
The People &c.,
Respondent,
v.
Edward Martinez-Fernandez,
Appellant.

Motion by Fines and Fees Justice Center 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.

3 Mo. No. 2024-647
In the Matter of Daimeon MM., et al., &c.

Delaware County Department of Social
Services,
Respondent;
Laurie MM.,
Appellant.

Motion for leave to appeal denied.
Motion for financial relief dismissed as academic.

1 Mo. No. 2024-473
In the Matter of Laureano Rivera,
Appellant,
v.
Keechant Sewell, &c. et al.,
Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2024-539
In the Matter of M.S.

Erie County Department of Social Services,
Respondent;
M.H., &c.,
Appellant.
(And Another Proceeding.)

Motion for leave to appeal granted.
Motion for financial relief granted.

2 Mo. No. 2024-817
The People &c.,
 Respondent,
 v.
Derek Sargeant,
 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. 2024-506
Zarko Svatovic,
 Appellant,
 v.
Jacqueline Shabot,
 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.

1 Mo. No. 2024-838
The People &c.,
 Respondent,
 v.
Felix Tapia,
 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.

3 Mo. No. 2024-830
The People &c.,
 Respondent,
 v.
Angela VV.,
 Appellant.

Motion to vacate this Court's December 10, 2024 preclusion order granted.

4 Mo. No. 2024-678
In the Matter of Harper W., et al.

Motion for leave to appeal denied.

Steuben County Department of Social
Services,
 Respondent;
Haley W.,
 Appellant.

Mo. No. 2024-816
The People &c.,
Respondent,
v.
McKenzie Willis,
Appellant.

Motion by Fines and Fees Justice Center 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.

3 Mo. No. 2024-684
In the Matter of Carrie X. et al.

Motion for leave to appeal denied.
Motion for financial relief dismissed as academic.

Broome County Department of Social
Services,
Respondent;
Amber Y.,
Appellant,
et al.,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2024-525
Mark A. Zittman, et al.,
Appellants,
v.
HSBC Bank USA, N.A., &c.,
Respondent.