

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

**Decisions**

January 11, 2024

**CASES**

1                    No. 43 SSM 10  
The People &c.,  
    Respondent,  
    v.  
Fabian Greene,  
    Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order modified by vacating the conviction for count 3 and dismissing that count of the indictment and, as so modified, affirmed, in a memorandum.  
Chief Judge Wilson and Judges Rivera, Garcia, Singas, Cannataro, Troutman and Halligan concur, Chief Judge Wilson in a concurring opinion.

4                    No. 96  
The People &c.,  
    Respondent,  
    v.  
Joshua Messano,  
    Appellant.

Order reversed, defendant's motion to suppress physical evidence granted and indictment dismissed. Opinion by Judge Rivera.  
Chief Judge Wilson and Judges Troutman and Halligan concur.  
Judge Garcia dissents and votes to affirm in an opinion, in which Judges Singas and Cannataro concur.

## MOTIONS

1                    Mo. No. 2023-705  
In the Matter of 160 East 84th Street  
Associates LLC,  
                  Appellant,  
          v.  
New York State Division of Housing and  
Community Renewal,  
                  Respondent.  
(Index Nos. 157563/20, 157573/20 and  
157580/20)

Motion for leave to appeal granted.

1                    Mo. No. 2024-25  
In the Matter of Edwin Agramonte, et al.,  
                  Appellants,  
          v.  
Local 461, District Council 37, American  
Federation of State, County and Municipal  
Employees, &c.,  
                  Respondent.

Motion by New York City Municipal Labor  
Committee 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. 2024-34  
The People &c.,  
                  Respondent,  
          v.  
Anthony Blue,  
                  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.

1                    Mo. No. 2023-488  
Booston, LLC,  
                  Respondent,  
          v.  
35 West Realty Co., LLC,  
                  Appellant.

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

3 Mo. No. 2023-817  
The People &c.,  
Respondent,  
v.  
Floyd Bruce,  
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.

3 Mo. No. 2023-722  
In the Matter of Angelica CC.,  
Respondent,  
v.  
Ronald DD.,  
Appellant.  
(And Two Other Proceedings.)

Motion for leave to appeal denied.

3 Mo. No. 2023-557  
In the Matter of Paul F. Cagino,  
Appellant,  
v.  
New York State Division of Human Rights et al.,  
Respondents.

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

1 Mo. No. 2023-498  
Certain Underwriters at Lloyd's, London, as subrogees of Roman Malakov Diamonds Ltd., Roman Malakov LLC, Elize International, Inc. d/b/a Elize's Diamond & Fine Jewelry and M&G Diamonds LLC d/b/a M.G. Diamond,  
Appellants,  
v.  
Forty Seventh Fifth Company LLC,  
Respondent,  
et al.,  
Defendant.  
(And a Third-Party Action.)

Motion, insofar as third-party defendants Roman Malakov Diamonds Ltd. et al. seek leave to appeal, dismissed upon the ground that they are not parties aggrieved (*see* CPLR 5511); motion for leave to appeal otherwise 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 49  
D&G Construction Dean Gonzalez, LLC, et  
al.,  
                  Appellants,  
          v.  
Sohn Enterprises, Inc., et al.,  
                  Respondents,  
et al.,  
                  Defendants.

3                    SSD 51  
Joseph A. Davis et al.,  
                  Appellants,  
          v.  
Marshall & Sterling, Inc.,  
                  Respondent;  
NXG Insurance Agency Group, LLC,  
                  Appellant.

2                    SSD 50  
Richard Farmer,  
                  Appellant,  
          v.  
Gazebo Contracting, Inc., et al.,  
                  Respondents.

1                    Mo. No. 2024-3  
The People &c.,  
                  Respondent,  
          v.  
Divine Fredericks,  
                  Appellant.

Appeal, insofar as taken against respondents Joseph Covello and Lynn, Gartner, Dunne and Covello, LLP, dismissed without costs, by the Court *sua sponte*, upon the ground that no substantial constitutional question is directly involved in the order appealed from; appeal otherwise 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.

Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that no appeal lies from the nonfinal order of the Appellate Division herein absent a certified question (NY Const, art VI, § 3 [b] [4]), unless appellants apply within thirty days to the Appellate Division to resettle the order granting leave to appeal and for the certification of a question in accordance with CPLR 5713, and unless thereafter such application is granted.

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.

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. 2023-545  
Ayse Giray,  
Appellant,  
v.  
Hamdi Ulukaya,  
Respondent.

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

1 Mo. No. 2023-730  
In the Matter of Celinette H.H.,  
Appellant,  
v.  
Michelle R. et al.,  
Respondents.

Motion for reargument denied.

1 Mo. No. 2023-504  
Ilan Properties, Inc.,  
Respondent,  
v.  
David Benishai,  
Appellant,  
et al.,  
Defendant.  
(And Another Action.)

Motion for leave to appeal denied.

4 Mo. No. 2023-673  
In the Matter of Letitia James, &c.,  
Respondent,  
v.  
VDRNC, LLC, &c.,  
Appellant,  
et al.,  
Respondent.

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

2 Mo. No. 2023-820  
The People &c.,  
Respondent,  
v.  
Tasnim Jeffriesel,  
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.

1                    Mo. No. 2023-477  
The People &c.,  
    Respondent,  
    v.  
Walter Jones,  
    Appellant.

Motion for leave to appeal granted.

4                    Mo. No. 2023-580  
In the Matter of Patrick A. Koch,  
    Respondent,  
    v.  
Sara L. Gorecki,  
    Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2024-17  
Gregory Morrison,  
    Appellant,  
    v.  
New York City Housing Authority,  
    Respondent.

Motion by Defense Association of New York, Inc. 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.

1                    Mo. No. 2023-563  
In the Matter of New York Civil Liberties Union,  
    Appellant,  
    v.  
New York City Department of Correction,  
    Respondent.

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

4                    Mo. No. 2023-701  
In the Matter of Raniya P.  
  
Erie County Department of Social Services,  
    Respondent;  
Robert P., Sr.,  
    Appellant.  
(And Two Other Proceedings.)

Motion for leave to appeal denied.

2                    SSD 48  
In the Matter of Roger Rowe,  
                          Appellant,  
                          v.  
Thomas F. Whelan, &c., et al.,  
                          Respondents.

Appeal from the June 2023 Appellate Division order denying reargument or leave to 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; appeal, insofar as also treated as taken from the March 2022 Appellate Division judgment, dismissed without costs, by the Court *sua sponte*, upon the ground that no appeal lies as of right from the unanimous judgment of the Appellate Division absent the direct involvement of a substantial constitutional question (*see* CPLR 5601). Judge Halligan took no part.

4                    Mo. No. 2023-515  
In the Matter of Tyasia T.S., &c.  
  
Monroe County Department of Human  
Services,  
                          Respondent;  
Ruthanne J.,  
                          Appellant.

Motion for leave to appeal denied.

3                    Mo. No. 2023-496  
The People &c.,  
                          Respondent,  
                          v.  
Timothy Shader,  
                          Appellant.

Motion for leave to appeal granted.

                          Mo. No. 2024-32  
Nafeesa Syeed,  
                          Appellant,  
                          v.  
Bloomberg L.P.,  
                          Respondent.

Motion by Anti-Discrimination Center, Inc. et al. for leave to appear amici curiae on consideration of the certified question herein granted to the extent that the proposed brief is accepted as filed. The brief must be submitted in digital format within seven days.

Mo. No. 2024-39

Nafeesa Syeed,  
Appellant,  
v.  
Bloomberg L.P.,  
Respondent.

Motion by State of New York et al. for leave to appear 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.

2 Mo. No. 2023-561

Berta Tamar,  
Appellant,  
v.  
Allstate Dismantling Corp.,  
et al.,  
Respondents.

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

2 Mo. No. 2024-31

Marta Urias, &c. et al.,  
Appellants,  
v.  
Daniel P. Buttafuoco & Associates, PLLC, et  
al.,  
Respondents.

Motion by Andrew Lavoot Bluestone, Esq. for leave to participate at oral argument as amicus curiae denied.

3 Mo. No. 2024-23

In the Matter of Walt Disney Company and  
Consolidated Subsidiaries,  
Appellant,  
v.  
Tax Appeals Tribunal of the State of New  
York et al.,  
Respondents.

Motion by Institute for Professionals in Taxation 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.



1                    Mo. No. 2023-827  
The People &c.,  
    Respondent,  
    v.  
Harvey Weinstein,  
    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.

Judges Troutman and Halligan took no part.