

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

December 17, 2020

**Decisions**  
**CASES**

2                    No. 85  
JPMorgan Chase Bank, National Association,  
    Respondent,  
    v.  
Ross R. Caliguri, &c.,  
    Appellant,  
et al.,  
    Defendants.

Judgment appealed from and so much of the Appellate Division order reviewed affirmed, with costs, in a memorandum.  
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

2                    No. 91  
The People &c.,  
    Respondent,  
    v.  
J.L.,  
    Appellant.

Order insofar as appealed from reversed and a new trial ordered on the count of criminal possession of a weapon in the third degree.  
Opinion by Judge Rivera.  
Judges Stein, Fahey and Wilson concur.  
Chief Judge DiFiore dissents and votes to affirm in an opinion in which Judges Garcia and Feinman concur.

1                    No. 88  
In the Matter of Randy Peyton, &c.,  
    Respondent,  
Hillel Hoffman, et al.,  
    Intervenors-Respondents,  
    v.  
New York City Board of Standards and Appeals, et al.,  
    Appellants.

Order reversed, with costs, judgment of Supreme Court, New York County, reinstated and certified question not answered as unnecessary.  
Opinion by Judge Feinman.  
Chief Judge DiFiore and Judges Stein and Garcia concur.  
Judge Wilson dissents in an opinion in which Judges Rivera and Fahey concur.

2                    No. 86  
US Bank National Association, &c.,  
    Respondent,  
    v.  
Kenyatta Nelson, et al.,  
    Appellants,  
et al.,  
    Defendants.

Order affirmed, with costs, and certified question  
answered in the affirmative, in a memorandum.  
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,  
Garcia and Feinman concur.  
Judge Wilson concurs in result in an opinion.

1                    No. 92  
The People &c.,  
    Respondent,  
    v.  
Lance Williams,  
    Appellant.

Order affirmed.  
Opinion by Judge Stein.  
Judges Fahey, Garcia and Feinman concur.  
Judge Rivera concurs in result in an opinion.  
Judge Wilson concurs in result in a separate  
concurring opinion.  
Chief Judge DiFiore took no part.

## MOTIONS

4                    Mo. No. 2020-662  
In the Matter of 425 West Main Associates  
LP,  
                  Appellant,  
          v.  
Selective Insurance Company of South  
Carolina,  
                  Respondent.

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

1                    Mo. No. 2020-655  
In the Matter of Diet Drug Litigation.  
  
Clara Appel-Hole, et al.,  
                  Appellants,  
          v.  
Wyeth-Ayerst Laboratories, et al.,  
                  Defendants,  
Paul J. Napoli, 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. 2020-663  
The People &c.,  
                  Respondent,  
          v.  
Miguel Avalo,  
                  Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2020-688  
The People &c.,  
                  Respondent,  
          v.  
Winston Baker,  
                  Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2020-660  
In the Matter of Barklee 94 LLC,  
                  Appellant,  
          v.  
New York City Department of Finance,  
                  Respondent.

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

4                    Mo. No. 2020-682  
The People &c.,  
                  Respondent,  
          v.  
Robert T. Bentley,  
                  Appellant.

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

1                    Mo. No. 2020-670  
C & J Brothers, Inc.,  
                  Appellant,  
          v.  
Hunts Point Terminal Produce Cooperative  
Associates, Inc.,  
                  Respondent.

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

2                    Mo. No. 2020-608  
In the Matter of DCH Auto, &c. et al.,  
                  Appellants,  
          v.  
Town of Mamaroneck, &c., 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 proceeding within the meaning of the Constitution (*see Burke v Crosson*, 85 NY2d 10, 18 n 5 [1995]).

2                    Mo. No. 2020-616  
In the Matter of DCH Auto, &c. et al.,  
                  Appellants,  
          v.  
Town of Mamaroneck, &c., et al.,  
                  Respondents.

Motion by Rite Aid Corporation for leave to appear amicus curiae on the motion for leave to appeal herein granted and the affirmation is accepted as filed.

2 Mo. No. 2020-642  
In the Matter of DCH Auto, &c. et al.,  
Appellants,  
v.  
Town of Mamaroneck, &c., et al.,  
Respondents.

Motion by International Council of Shopping Centers, Inc. for leave to appear amicus curiae on the motion for leave to appeal herein granted and the memorandum of law is accepted as filed.

2 Mo. No. 2020-659  
In the Matter of DCH Auto, &c. et al.,  
Appellants,  
v.  
Town of Mamaroneck, &c., et al.,  
Respondents.

Motion by J.C. Penney Company 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.

2 Mo. No. 2020-694  
In the Matter of DCH Auto, &c. et al.,  
Appellants,  
v.  
Town of Mamaroneck, &c., et al.,  
Respondents.

Motion by Stop & Shop Supermarket Company, LLC 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. 2020-669  
In the Matter of Gronich & Company, Inc.,  
Appellant,  
v.  
Simon Property Group, Inc., et al.,  
Respondents.

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

3 Mo. No. 2020-684  
In the Matter of William H. Hoffay, et al.,  
Appellants,  
v.  
Town of Sand Lake, et al.,  
Respondents.

Motion to dismiss appeal as untimely denied. On the Court's own motion, appeal dismissed, without costs, upon the ground that no substantial constitutional question is directly involved.

3                    Mo. No. 2020-661  
Piotr Holownia et al.,  
                  Appellants,  
                  v.  
Vincent Caruso,  
                  Defendant,  
New Prime, Inc., et al.,  
                  Respondents.

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

4                    Mo. No. 2020-573  
In the Matter of the Arbitration between City  
of Jamestown,  
                  Appellant;  
Kendall Club Police Benevolent Association,  
Inc.,  
                  Respondent.

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

4                    Mo. No. 2020-602  
Johnathan Johnson,  
                  Appellant,  
                  v.  
Harold Graham et al.,  
                  Respondents.

Motion for leave to appeal dismissed upon the ground that it does not lie.

2                    Mo. No. 2020-600  
Violeta Kandov,  
                  Appellant,  
                  v.  
Anatole Kats, et al.,  
                  Respondents.

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

4                    Mo. No. 2020-628  
In the Matter of Sophie Peter Kotsones, &c.  
  
James Kotsones,  
                  Appellant,  
                  v.  
Ellen Kreopolides, &c., et al.,  
                  Respondents.

Motion for leave to appeal granted.

4                    Mo. No. 2020-693  
In the Matter of Amanda Nortz,  
                          Appellant,  
                          v.  
New York State Department of Motor  
Vehicles Appeals Board,  
                          Respondent.

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

2                    Mo. No. 2020-644  
Felix A. Onyenwe, &c.,  
                          Respondent,  
                          v.  
Dennis Peter Hamernick,  
                          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.

1                    Mo. No. 2020-692  
Kamelia K. Poppe,  
                          Appellant,  
                          v.  
William F. Poppe,  
                          Respondent.

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

3                    Mo. No. 2020-685  
Elizabeth Prendergast,  
                          Respondent,  
                          v.  
Maria Swiencicky,  
                          Appellant,  
et al.,  
                          Defendant.

Motion for leave to appeal denied.  
Motion to disqualify counsel denied.

3                    Mo. No. 2020-668  
In the Matter of Robert Reed,  
                          Appellant,  
                          v.  
Anthony J. Annucci, &c. et al.,  
                          Respondents.

Motion for reargument of motion for leave to appeal denied.  
Judge Stein took no part.

2 Mo. No. 2020-647  
Duane Smith et al.,  
Appellants,  
v.  
Village of Freeport Police Department et al.,  
Respondents.

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

2 Mo. No. 2020-620  
Nicole Swinney,  
Appellant,  
v.  
Nassau County et al.,  
Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2020-609  
Thomas Tornatore,  
Respondent,  
v.  
Jean Cohen, &c.,  
Defendant.  
Allied Professionals Insurance Company,  
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.

4 Mo. No. 2020-607  
Christine Wagner,  
Appellant,  
v.  
New York Central Mutual Fire Insurance  
Company,  
Respondent.

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

2 Mo. No. 2020-560  
Kaymarie Waring,  
Appellant,  
v.  
Martin Matalon, &c., et al.,  
Respondents,  
et al.,  
Defendants.

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



3 Mo. No. 2020-679  
Giovanni White,  
Appellant,  
v.  
State of New York,  
Respondent.

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.  
Motion for poor person relief dismissed as academic.

2 Mo. No. 2020-672  
The People &c.,  
Respondent,  
v.  
Dionte Williams,  
Appellant.

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

3 Mo. No. 2020-631  
In the Matter of Jalah Wimberly,  
Appellant,  
v.  
Anthony J. Annucci, &c.,  
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2020-643  
In the Matter of XO Communications  
Services, LLC,  
Appellant,  
v.  
Tax Appeals Tribunal 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. 2020-586  
W.Z., &c.,  
Appellant,  
v.  
New York City Health and Hospitals  
Corporation,  
Respondent.

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

2                    Mo. No. 2020-683  
The People &c.,  
    Respondent,  
    v.  
Henry Zamora,  
    Appellant.

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