

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

**Decisions**

December 13, 2022

**CASES**

No. 108 SSM 18

The People &c.,  
Respondent,  
v.  
Jaime Cruz,  
Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and accusatory instrument dismissed. As the People acknowledge, the accusatory instrument's misdemeanor count, to which defendant pleaded guilty, was facially deficient (*see People v Hill*, 38 NY3d 460, 462 [2022]). The People consent to dismissal of the remaining portion of the accusatory instrument. Acting Chief Judge Cannataro and Judges Rivera, Garcia, Wilson, Singas and Troutman concur.

3 No. 109 SSM 17

The People &c.,  
Appellant,  
v.  
Michael Heiserman,  
Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, Third Department, for consideration of the facts and issues raised but not determined on appeal to that Court, in a memorandum. Acting Chief Judge Cannataro and Judges Rivera, Garcia, Wilson, Singas and Troutman concur.

2 No. 103

The People &c.,  
Appellant,  
v.  
Rudolph Kaval,  
Respondent.

Order reversed and case remitted to the Appellate Division, Second Department, for consideration of the facts and issues raised but not determined on appeal to that Court, in a memorandum. Acting Chief Judge Cannataro and Judges Rivera, Garcia, Singas and Troutman concur. Judge Wilson dissents and votes to affirm in an opinion.

No. 102

The People &c.,  
Appellant,  
v.  
Anthony Lagano,  
Respondent.

Order reversed and case remitted to the Appellate Term of Supreme Court for the 2nd, 11th and 13th Judicial Districts, for a determination of the facts and issues raised but not determined on appeal to that Court (CPL 470.25 [2] [d]; 470.40 [2] [b]).  
Opinion by Judge Rivera.  
Acting Chief Judge Cannataro and Judges Garcia, Wilson, Singas and Troutman concur.

4 No. 98  
The People &c.,  
Respondent,  
v.  
Daniel Talluto,  
Appellant.

Order affirmed, without costs.  
Opinion by Judge Troutman.  
Acting Chief Judge Cannataro and Judges Rivera, Garcia and Singas concur.  
Judge Wilson dissents in an opinion.

## MOTIONS

2                    Mo. No. 2022-652  
Courtney Anderson,  
                        Respondent,  
                        v.  
Commack Fire District,  
                        Appellant,  
et al.,  
                        Defendants.

Motion by Association of Fire Districts of the State of New York 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.

2                    SSD 48  
In the Matter of Anonymous, &c.  
  
Grievance Committee for the Second,  
Eleventh, and Thirteenth Judicial Districts,  
                        Respondent;  
Anonymous,  
                        Appellant.  
(App. Div. No. 2021-05514)

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.

2                    SSD 49  
In the Matter of Anonymous, &c.  
  
Grievance Committee for the Second,  
Eleventh, and Thirteenth Judicial Districts,  
                        Respondent;  
Anonymous,  
                        Appellant.  
(App. Div. No. 2021-08435)

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.

2                    Mo. No. 2022-812  
Bank of America, N.A.,  
                        Appellant,  
                        v.  
Andrew Kessler,  
                        Respondent,  
et al.,  
                        Defendants.

Motion by American Legal and Financial Network, et al. for leave to file a brief 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.

2                    Mo. No. 2022-840  
Bank of America, N.A.,  
    Appellant,  
    v.  
Andrew Kessler,  
    Respondent,  
et al.,  
    Defendants.

Motion by USFN - America's Mortgage Banking Attorneys for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. The brief must be submitted in digital format within seven days.

2                    SSD 50  
In the Matter of Rosalie Cardinale,  
    Appellant,  
    v.  
New York City Department of Education,  
    Respondent.

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

3                    Mo. No. 2022-582  
In the Matter of Clifton Park Apartments,  
LLC, &c., et al.,  
    Respondents,  
    v.  
New York State Division of Human Rights,  
    Appellant,  
et al.,  
    Respondents.  
(And Another Related Proceeding.)

Motion for leave to appeal granted.

4                    Mo. No. 2022-748  
In the Matter of Wilson L. DeJesus,  
    Respondent,  
    v.  
Anne Blossick,  
    Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2022-762  
The People &c.,  
    Respondent,  
    v.  
Jean Dufresne,  
    Appellant.

Motion for leave to appeal granted.

2                    Mo. No. 2022-807  
The People &c.,  
    Respondent,  
    v.  
Jorge Espinosa,  
    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. 2022-580  
In the Matter of Judith E. Haskin,  
    Appellant,  
    v.  
New York State Division of Housing and  
Community Renewal,  
    Respondent.  
Stahl Associates, LLC,  
    Intervenor-Respondent.

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

1                    Mo. No. 2022-736  
In the Matter of Taveon J. et al., &c.  
  
Selina T.,  
    Appellant,  
Dorian P.,  
    Respondent;  
Administration for Children's Services,  
    Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2022-701  
In the Matter of Jerry Jones,  
    Appellant,  
    v.  
New York City Transit Authority, et al.,  
    Respondents.

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

4 Mo. No. 2022-372  
In the Matter of the Adoption of Kayden.

Misty G. et al.,  
Respondents,  
v.  
Nicholas G.,  
Appellant.

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

Mo. No. 2022-843  
The People &c.,  
Appellant,  
v.  
Patrick Labate,  
Respondent.

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 respondent on the appeal herein.

2 Mo. No. 2022-581  
In the Matter of Shermel M.,  
Appellant.

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

3 Mo. No. 2022-525  
Daniel E. McAuliffe,  
Respondent,  
v.  
Maria D. McAuliffe,  
Appellant.

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

4 Mo. No. 2022-795  
The People &c.,  
Respondent,  
v.  
Hanza Muhammad,  
Appellant.

Motion for assignment of counsel granted and Philip Rothschild, Esq., Hiscock Legal Aid Society, 351 South Warren Street, Syracuse, NY 13202 assigned as counsel to the appellant on the appeal herein.

1 Mo. No. 2022-839  
Estate of Tayshana Murphy, &c.,  
Appellant,  
v.  
New York City Housing Authority,  
Respondent,  
et al.,  
Defendants.

Motion by Defense Association of New York, Inc. et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed. The brief must be submitted in digital format within seven days.

4 Mo. No. 2022-810  
The People &c.,  
Respondent,  
v.  
Michael Myers,  
Appellant.

Motion by New York State Association of Criminal Defense Lawyers for leave to appear amicus curiae on the appeal 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.

1 Mo. No. 2022-530  
Walter Navedo et al.,  
Plaintiffs,  
v.  
VNO 225 West 58th Street LLC et al.,  
Defendants.

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

-----  
VNO 225 West 58th Street LLC et al.,  
Appellants,  
v.  
S.J. Electric, Inc.,  
Respondent.

1 Mo. No. 2022-552  
In the Matter of Nonhuman Rights Project,  
Inc., &c.,  
Appellant,  
v.  
James J. Breheny, &c., et al.,  
Respondents.

Motion for reargument denied.

4 Mo. No. 2022-658  
In the Matter of Danielle E.P.,  
Respondent,  
v.  
Christopher N.,  
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2022-659  
In the Matter of Christopher N.,  
Appellant,  
v.  
Danielle P.,  
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.

3 Mo. No. 2022-456  
In the Matter of Stephanie Q.,  
Respondent,  
v.  
Walter R.,  
Appellant.  
(And Another Related Action.)

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

4 Mo. No. 2022-754  
In the Matter of Ebony Riley,  
Appellant,  
v.  
Joshua Kidney,  
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2022-700  
In the Matter of Brady J.S.,  
Respondent,  
v.  
Darla A.B., et al.,  
Respondents.  
(And Another Proceeding.)

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

Paul B. Watkins, Esq., Attorney for the Child,  
Appellant.



3 Mo. No. 2022-621  
In the Matter of Hakeem S., et al., &c.

Schenectady County Department of Social  
Services,  
Appellant;  
Sarah U.,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2022-609  
The People &c.,  
Respondent,  
v.  
Treyman Songster,  
Appellant.

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

3 Mo. No. 2022-842  
In the Matter of Town of Southampton et al.,  
Respondents,  
et al.,  
Petitioner,  
v.  
New York State Department of  
Environmental Conservation et al.,  
Respondents,  
Sand Land Corporation et al.,  
Appellants.

Motion by Sierra Club for leave to appear amicus  
curiae on the appeal 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.  
Judge Rivera took no part.

2 Mo. No. 2022-702  
Randolph J. Taylor,  
Respondent,  
v.  
Anna Taylor,  
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. 2022-737  
In the Matter of Anna Taylor,  
                  Appellant,  
          v.  
Randolph J. Taylor Sr.,  
                  Respondent.

Motion for leave to appeal &c. dismissed upon the ground that the “Papers Rejection Notice” sought to be appealed from is not a judgment or an order from which an appeal to this Court may be taken (*see* CPLR 5512 [a]; 5602 [a]).

1                    Mo. No. 2022-861  
The People &c.,  
                  Respondent,  
          v.  
David Williams,  
                  Appellant.

Motion for assignment of counsel granted and Robert S. Dean, Esq., Center for Appellate Litigation, 120 Wall Street, 28th Floor, New York, NY 10005 assigned as counsel to the appellant on the appeal herein.