

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

**Decisions**

May 19, 2022

**CASES**

3                    No. 36  
Columbia Memorial Hospital,  
    Appellant,  
    v.  
Marcel E. Hinds,  
    Respondent.

Order affirmed, with costs.  
Opinion by Judge Wilson.  
Chief Judge DiFiore and Judges Rivera, Garcia,  
Singas, Cannataro and Troutman concur.

2                    No. 38  
Maple Medical, LLP,  
    Appellant,  
    v.  
Joseph Scott, &c.,  
    Respondent,  
et al.,  
    Defendant.

Order affirmed, with costs, and certified question not  
answered as unnecessary.  
Opinion by Judge Wilson.  
Chief Judge DiFiore and Judges Rivera, Garcia,  
Singas, Cannataro and Troutman concur.

2                    No. 39  
Maple Medical, LLP,  
    Appellant,  
    v.  
Diana Goldenberg, &c.,  
    Respondent,  
et al.,  
    Defendant.

Order affirmed, with costs, and certified question not  
answered as unnecessary.  
Opinion by Judge Wilson.  
Chief Judge DiFiore and Judges Rivera, Garcia,  
Singas, Cannataro and Troutman concur.

2                    No. 40  
Maple Medical, LLP,  
    Appellant,  
    v.  
Diana Arevalo, &c.,  
    Respondent,  
et al.,  
    Defendant.

Order affirmed, with costs, and certified question not  
answered as unnecessary.  
Opinion by Judge Wilson.  
Chief Judge DiFiore and Judges Rivera, Garcia,  
Singas, Cannataro and Troutman concur.

2                    No. 41  
Maple Medical, LLP,  
    Appellant,  
    v.  
Nina Sundaram, &c.,  
    Respondent,  
et al.,  
    Defendant.

Order affirmed, with costs, and certified question not answered as unnecessary.  
Opinion by Judge Wilson.  
Chief Judge DiFiore and Judges Rivera, Garcia, Singas, Cannataro and Troutman concur.

2                    No. 42  
Maple Medical, LLP,  
    Appellant,  
    v.  
Mario Mutic, &c.,  
    Respondent,  
et al.,  
    Defendant.

Order affirmed, with costs, and certified question not answered as unnecessary.  
Opinion by Judge Wilson.  
Chief Judge DiFiore and Judges Rivera, Garcia, Singas, Cannataro and Troutman concur.

2                    No. 43  
Maple Medical, LLP,  
    Appellant,  
    v.  
Lisa H. Youkeles, &c.,  
    Respondent,  
et al.,  
    Defendant.

Order affirmed, with costs, and certified question not answered as unnecessary.  
Opinion by Judge Wilson.  
Chief Judge DiFiore and Judges Rivera, Garcia, Singas, Cannataro and Troutman concur.

4                    No. 61 SSM 9  
The People &c.,  
    Appellant,  
    v.  
Kesean R. McKenzie-Smith,  
    Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, Fourth Department, for consideration of the facts and issues raised but not determined on appeal to that Court. The Appellate Division erred in holding that defendant's *Antommarchi* claim (*People v Antommarchi*, 80 NY2d 247 [1992]) entitled him to a new trial (*see People v Wilkins*, 37 NY3d 371, 380 [2021]). Chief Judge DiFiore and Judges Rivera, Garcia, Wilson, Singas and Cannataro concur. Judge Troutman took no part.

3                    No. 62 SSM 13  
Park Avenue Associates in Radiology, P.C.,  
    Appellant,  
    v.  
Peter Joseph Nicholson,  
    Respondent,  
et al.,  
    Defendants.

2                    No. 51  
The People &c.,  
    Appellant,  
    v.  
Luis A. Rodriguez,  
    Respondent.

3                    No. 37  
Kim E. Schoch,  
    Respondent,  
    v.  
Lake Champlain OB-GYN, P.C.,  
    Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs (*see Columbia Mem. Hosp. v Hinds*, \_\_ NY3d \_\_ [decided today]).

Chief Judge DiFiore and Judges Rivera, Garcia, Wilson, Singas, Cannataro and Troutman concur.

Order reversed and case remitted to the Appellate Division, Second Department, for further proceedings in accordance with the opinion herein.

Opinion by Judge Cannataro.

Chief Judge DiFiore and Judges Rivera, Garcia, Wilson, Singas and Troutman concur.

Order affirmed, with costs.

Opinion by Judge Wilson.

Chief Judge DiFiore and Judges Rivera, Garcia, Singas, Cannataro and Troutman concur.

## MOTIONS

1                    Mo. No. 2022-124  
14 East 4th Street Unit 509 LLC,  
Respondent,  
v.  
Michael Toporek,  
Appellant.

Motion for leave to appeal dismissed for failure to demonstrate timeliness as required by Rules of the Court of Appeals (*see* 22 NYCRR § 500.22 [b] [2]).

3                    SSD 12  
In the Matter of Anonymous,  
&c.,  
Appellant.

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.

                         Mo. No. 2022-282  
The People &c.,  
Respondent,  
v.  
Mamadou Ba,  
Appellant.

Motion for assignment of counsel granted and Janet E. Sabel, Esq., The Legal Aid Society, 199 Water Street, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.

4                    Mo. No. 2022-149  
The People &c. ex rel. Germaine Brown,  
Appellant,  
v.  
State of New York Department of  
Corrections,  
Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2022-213  
In the Matter of Marta Bryceland,  
Appellant,  
v.  
Thomas Gut,  
Respondent.  
(And Another Proceeding.)

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the proceedings within the meaning of the Constitution.  
Motion for poor person relief &c. dismissed as academic.

1 Mo. No. 2022-246  
In the Matter of Hilary C.,  
Appellant,  
v.  
Michael K.,  
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.  
Motion for poor person relief dismissed as academic.

1 Mo. No. 2022-74  
Thomas Caso,  
Appellant,  
v.  
Miranda Sambursky Slone Sklarin  
Verveniotis LLP, et al.,  
Respondents,  
et al.,  
Defendants.

Motion for leave to appeal denied.

1 Mo. No. 2022-341  
The People &c.,  
Respondent,  
v.  
Axel Correria-Robles,  
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. 2022-135  
The People &c.,  
Respondent,  
v.  
Steven C. Forshey,  
Appellant.

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

1 Mo. No. 2022-145  
The People &c.,  
Respondent,  
v.  
Rigoberto Funez,  
Appellant.

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

2 Mo. No. 2022-138  
The People &c.,  
Respondent,  
v.  
Michael Glosque,  
Appellant.

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

1 Mo. No. 2022-258  
The People &c.,  
Respondent,  
v.  
Angel Gurity, also known as Angel Guridy,  
Appellant.

Motion for an extension of the time within which to  
apply for permission to appeal pursuant to CPL  
460.20 dismissed as untimely.

4 Mo. No. 2022-110  
In the Matter of Delbert W. Hargis, Jr.,  
Appellant,  
v.  
Victoria Ann Pritty-Pitcher,  
Respondent.  
(And Related Proceedings.)

Motion, insofar as it seeks leave to appeal from the  
Appellate Division order that dismissed the appeal  
from the December 16, 2020 Family Court order,  
dismissed upon the ground that the order sought to  
be appealed from does not finally determine the  
proceeding within the meaning of the Constitution;  
motion for leave to appeal otherwise denied.  
Motion for poor person relief dismissed as academic.  
Judge Troutman took no part.

4 Mo. No. 2022-355  
Krystal Hetelekides, &c.,  
Appellant,  
v.  
County of Ontario et al.,  
Respondents.

Motion by Pacific Legal Foundation 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.

3 Mo. No. 2022-150  
In the Matter of Brian Lee Hunt,  
Appellant,  
v.  
Anthony J. Annucci, &c.,  
Respondent.

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

4 Mo. No. 2022-143  
The People &c.,  
Respondent,  
v.  
Virgil Johnson,  
Appellant.

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

4 Mo. No. 2022-106  
Norman K., &c.,  
Appellant,  
v.  
Alan Posner, et al.,  
Respondents,  
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.  
Judge Troutman took no part.

1 SSD 13  
In the Matter of Julie Lallo,  
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.

4 Mo. No. 2022-177  
In the Matter of LaRae L.  
  
Onondaga County Department of Children  
and Family Services,  
Respondent;  
Heather L.,  
Appellant.

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

1 Mo. No. 2022-154  
Olena Lavrenyuk, &c.,  
Respondent,  
v.  
Life Care Services, Inc.,  
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.  
Motion for a stay dismissed as academic.

3 Mo. No. 2022-121  
In the Matter of Feng Li,  
Appellant,  
v.  
Michael J. Knight, &c.,  
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2022-72  
The People &c.,  
Respondent,  
v.  
Juan Lopez,  
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2022-188  
In the Matter of Jacieon M. et al.  
  
Monroe County Department of Human  
Services,  
Respondent;  
India M.,  
Appellant,  
et al.,  
Respondent.

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

1 SSD 14  
Alan Meckler,  
Respondent,  
v.  
David Molner,  
Appellant.

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

4 Mo. No. 2022-153  
Allison Mitura,  
Respondent,  
v.  
Paul Mitura,  
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. 2022-119  
In the Matter of Steven M. Politi, &c.,  
    Appellant,  
    v.  
Fernando Camacho, &c.,  
    Respondent.

Motion for leave to appeal denied.

3                    Mo. No. 2022-136  
In the Matter of Stephanie R.,  
    Respondent,  
    v.  
Walter Q.,  
    Appellant.

Motion for leave to appeal denied.

3                    Mo. No. 2022-295  
The People &c.,  
    Respondent,  
    v.  
Melbourne Ridge,  
    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.

2                    Mo. No. 2022-113  
Tracy Ryals,  
    Appellant,  
    v.  
West 21st Street Properties LLC,  
    Respondent,  
et al.,  
    Defendants.  
(And a Third-Party Action.)

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. 2022-116  
In the Matter of Brett B. Truett, et al.,  
    Appellants,  
    v.  
Oneida County,  
    Respondent.

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

3 Mo. No. 2021-1010  
In the Matter of the Claim of Jose Urdiales,  
Appellant,  
v.  
Durite Concepts Inc/Durite USA et al.,  
Respondents.  
Workers' Compensation Board,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2021-989  
U.S. Bank National Association, &c.,  
Appellant,  
v.  
Marie Derissaint, &c.,  
Respondent,  
et al.,  
Defendants.

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

2 Mo. No. 2022-1  
U.S. Bank N.A., &c.,  
Respondent,  
v.  
Gerald Lent, &c.,  
Appellant,  
et al.,  
Defendants.

Motion for leave to appeal denied.

3 Mo. No. 2022-117  
The People &c.,  
Respondent,  
v.  
Sam Wassilie,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2022-131  
The People &c.,  
Respondent,  
v.  
Dashawn Williams,  
Appellant.

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

3                    Mo. No. 2022-241  
In the Matter of Jaylynn WW. et al., &c.

Clinton County Department of Social  
Services,  
    Respondent;  
Justin WW.,  
    Appellant,  
Roxanne WW.,  
    Respondent.

Motion for leave to appeal denied.

3                    Mo. No. 2022-254  
In the Matter of Robert XX.,  
    Appellant,  
    v.  
Susan YY.,  
    Respondent.  
(And Another Related Proceeding.)

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

3                    Mo. No. 2022-63  
In the Matter of Bryce Y. et al., &c.  
  
Columbia County Department of Social  
Services,  
    Respondent;  
Clint Y.,  
    Appellant.

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.