

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

**Decisions**

April 20, 2023

**CASES**

2                    No. 16  
Courtney Anderson,  
    Respondent,  
    v.  
Commack Fire District,  
    Appellant,  
et al.,  
    Defendants.

Order reversed, with costs, that branch of defendants' motion seeking summary judgment dismissing the complaint insofar as asserted against defendant Commack Fire District granted and certified question answered in the negative.  
Opinion by Judge Cannataro.  
Judges Garcia, Singas and Troutman concur.  
Judge Rivera dissents and votes to affirm in an opinion, in which Chief Judge Wilson concurs.  
Judge Halligan took no part.

3                    No. 17  
The People &c.,  
    Respondent,  
    v.  
Mark A. Hartle,  
    Appellant.

Order affirmed.  
Opinion by Judge Garcia.  
Judges Singas, Cannataro and Troutman concur.  
Judge Rivera dissents in an opinion, in which Chief Judge Wilson concurs.  
Judge Halligan took no part.

4                    No. 28  
The People &c.,  
    Respondent,  
    v.  
Thomas P. Perdue,  
    Appellant.

Reargument ordered for a future Court session.  
Chief Judge Wilson and Judges Rivera, Garcia, Singas, Cannataro and Troutman concur.  
Judge Halligan took no part.

3                    No. 25  
The People &c.,  
    Appellant,  
    v.  
Yermia Solomon, a/k/a Jeremy Solomon,  
    Respondent.

Order affirmed, in a memorandum.  
Chief Judge Wilson and Judges Rivera, Garcia, Singas, Cannataro and Troutman concur.  
Judge Halligan took no part.

## MOTIONS

1                    Mo. No. 2023-143  
4069 Rosen Associates, LLC et al.,  
    Respondents,  
    v.  
Tournamentone Corp., &c.,  
    Appellant.

Motion for sanctions denied.  
Judge Halligan took no part.

2                    Mo. No. 2023-57  
In the Matter of Harlan Brisard,  
    Appellant,  
    v.  
Jasmine Brisard,  
    Respondent.  
(And Another Proceeding.)

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

3                    Mo. No. 2023-223  
In the Matter of Foreclosure of Tax Liens by  
the County of Broome.  
  
County of Broome,  
    Respondent;  
John Cadore et al.,  
    Appellants.

On the Court's own motion, appeal dismissed,  
without costs, upon the ground that the order  
appealed from does not finally determine the  
proceeding within the meaning of the Constitution.  
Motion for a stay dismissed as academic.  
Judge Halligan took no part.

2                    Mo. No. 2023-249  
The People &c.,  
    Respondent,  
    v.  
Marcus Brown,  
    Appellant.

Motion by Office of the Appellate Defender, 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.  
Judge Halligan took no part.

1 Mo. No. 2023-49  
In the Matter of Jeremiah C., &c.

Kim C.,  
Appellant;  
Catholic Guardian Services,  
Respondent.

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

2 SSD 18  
In the Matter of Call-A-Head Portable Toilets,  
Inc., et al.,  
Appellants,  
v.  
New York State Department of  
Environmental Conservation, et al.,  
Respondents.

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

1 Mo. No. 2023-247  
The People &c.,  
Respondent,  
v.  
Jairo Castillo,  
Appellant.

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.  
Judge Halligan took no part.

4 Mo. No. 2023-61  
In the Matter of Justin R. Cutten,  
Appellant,  
v.  
Devan R. Harrington,  
Respondent.

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

4 Mo. No. 2023-238  
The People &c.,  
Respondent,  
v.  
Carlos L. David,  
Appellant.

Motion for assignment of counsel granted and Julie A. Cianca, Esq., Monroe County Public Defender, 10 N. Fitzhugh Street, Rochester, NY 14614 assigned as counsel to the appellant on the appeal herein.  
Judge Halligan took no part.

3 Mo. No. 2022-886  
In the Matter of Jermaine Davis,  
Appellant,  
v.  
Anthony J. Annucci, &c.,  
Respondent.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Judge Halligan took no part.

2 Mo. No. 2023-210  
The People &c.,  
Respondent,  
v.  
Dwane Estwick,  
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.  
Judge Halligan took no part.

1 Mo. No. 2023-239  
The People &c.,  
Respondent,  
v.  
George Garcia,  
Appellant.

Motion, pursuant to CPL 460.60 (3), to extend the  
time for argument or submission of the appeal and to  
continue the stay granted and stay continued pending  
determination of the appeal.  
Judge Halligan took no part.

1 Mo. No. 2023-189  
Lukasz Gottwald, &c., et al.,  
Respondents,  
v.  
Kesha Rose Sebert, &c.,  
Appellant,  
et al.,  
Defendants.

Motion by The Reporters Committee for Freedom of  
the Press, 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.  
Judge Halligan took no part.

3 SSD 17  
Aixa Graham,  
Appellant,  
v.  
State of New York,  
Respondent.

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.  
Judge Halligan took no part.

4                    Mo. No. 2023-127  
In the Matter of Corey J. Hogan, &c.,  
                          Appellant.  
Grievance Committee of the Eighth Judicial  
District,  
                          Respondent.

                          SSD 15  
The People &c. ex rel. Phillip Holloway,  
                          Appellant,  
                          v.  
Superintendent James Johnson, &c.,  
                          Respondent.

1                    Mo. No. 2023-290  
IKB International, S.A., &c., et al.,  
                          Respondents,  
                          v.  
Wells Fargo Bank, N.A., &c., et al.,  
                          Appellants,  
ABFC 2006-OPT1 Trust, et al.,  
                          Nominal Defendants.  
(And Three Other Actions.)

1                    Mo. No. 2022-893  
Thomas Lent,  
                          Appellant,  
                          v.  
City of New York, et al.,  
                          Respondents.

Motion for leave to appeal denied.  
Motion for a stay dismissed as academic.  
Judge Halligan took no part.

Appeal transferred without costs, by the Court *sua sponte*, to the Appellate Division, Second Department, upon the ground that a direct appeal does not lie where questions other than the constitutional validity of a statutory provision are involved (*see* NY Const art VI §§ 3 [b] [2], [5] [b]; CPLR 5601 [b] [2]).  
Judge Halligan took no part.

Motion by American Bankers Association 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.  
Judge Halligan took no part.

Motion for leave to appeal dismissed as untimely (*see* CPLR 5513 [b]).  
Judge Halligan took no part.

Mo. No. 2023-156  
In the Matter of Michael McRae, &c.,  
Respondent;  
Vivian Hill,  
Appellant.

On the Court's own motion, appeal transferred, without costs, to the Appellate Division, First Department, upon the ground that a direct appeal does not lie when questions other than the constitutional validity of a statutory provision are involved (*see* NY Const, art VI, §§ 3 [b] [2], 5 [b]; CPLR 5601 [b] [2]).

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain it (*see* NY Const, art VI, § 3; CPLR 5602). Judge Halligan took no part.

1                   SSD 19  
Paul Nichols et al.,  
Appellants,  
et al.,  
Petitioner,  
v.  
Kathy Hochul, &c., et al.,  
Respondents.

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. Judge Halligan took no part.

3                   Mo. No. 2023-71  
In the Matter of Michael NN.,  
Appellant,  
v.  
Robert OO.,  
Respondent.

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

3                   Mo. No. 2023-63  
In the Matter of Zaiden P. et al., &c.  
  
Cortland County Department of Social Services,  
Respondent;  
Bayshawn P.,  
Appellant.  
(And Related Proceedings.)

Motion for leave to appeal denied. Motion for poor person relief dismissed as academic. Judge Halligan took no part.

3                    Mo. No. 2023-105  
In the Matter of Zaiden P. et al., &c.

Cortland County Department of Social  
Services,  
    Respondent;  
Ashley Q.,  
    Appellant.  
(And Related Proceedings.)

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

2                    Mo. No. 2023-261  
The People &c.,  
    Respondent,  
    v.  
Tyrone Peters,  
    Appellant.

Motion for assignment of counsel granted and Eric  
Nelson, Esq., 54 Florence Street, Staten Island, NY  
10308 assigned as counsel to the appellant on the  
appeal herein.  
Judge Halligan took no part.

2                    Mo. No. 2023-73  
In the Matter of Mia S.  
  
Suffolk County Department of Social  
Services,  
    Respondent;  
Michelle C.,  
    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.  
Motion for poor person relief dismissed as academic.  
Judge Halligan took no part.

4                    Mo. No. 2023-222  
The People &c.,  
    Respondent,  
    v.  
Jeremy B. Soto,  
    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.  
Judge Halligan took no part.

4 Mo. No. 2022-898  
In the Matter of Briana S.-S.

Genesee County Department of Social  
Services,  
Respondent;  
Ricardo S.,  
Appellant.  
(And Related Proceedings.)

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

4 Mo. No. 2023-7  
In the Matter of Briana S.-S.

Genesee County Department of Social  
Services,  
Respondent;  
Emily S.,  
Appellant.  
(And Related Proceedings.)

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

3 Mo. No. 2023-252  
In the Matter of St. Lawrence County et al.,  
Appellants,  
v.  
City of Ogdensburg et al.,  
Respondents,  
et al.,  
Respondents.

Motion by New York State Association of Counties  
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 Halligan took no part.

3 SSD 16  
State of New York,  
Respondent,  
v.  
Carlotta R. Summers,  
Appellant.

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.  
Judge Halligan took no part.



3                    Mo. No. 2023-274  
The People &c.,  
    Respondent,  
    v.  
Kevin L. Thomas,  
    Appellant.

Motion for assignment of counsel granted and John B. Casey, Esq., c/o Casey Law LLC, 4 Tower Place, Suite 100, Albany, NY 12203 assigned as counsel to the appellant on the appeal herein.  
Judge Halligan took no part.

2                    Mo. No. 2023-42  
Shaindy Weichman,  
    Appellant,  
    v.  
Yechezkel C. Weichman,  
    Respondent.

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

2                    Mo. No. 2023-66  
Shaindy Weichman,  
    Appellant,  
    v.  
Yechezkel C. Weichman,  
    Respondent.

Motion by A.G., et al. for leave to appear amici curiae on the motion for leave to appeal herein granted and the proposed brief is accepted as filed.  
Judge Halligan took no part.

4                    Mo. No. 2023-236  
The People &c.,  
    Respondent,  
    v.  
Talarico Young,  
    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.  
Judges Troutman and Halligan took no part.