

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

**Decisions**

October 15, 2020

**CASES**

No. 48

The People &c.,  
Respondent,  
v.  
Edward Hardy,  
Appellant.

Order reversed and accusatory instrument dismissed.  
Opinion by Judge Wilson.  
Judges Stein, Fahey and Feinman concur.  
Judge Garcia dissents and votes to affirm in an  
opinion in which Chief Judge DiFiore concurs.  
Judge Rivera dissents and votes to affirm in a  
separate dissenting opinion.

No. 61

In the Matter of the Hon. Richard H. Miller,  
II, a Judge of Family Court, Broome County.

Richard H. Miller, II,  
Petitioner;  
New York State Commission on Judicial  
Conduct,  
Respondent.

Determined sanction accepted, without costs, and  
Richard H. Miller, II removed from the office of  
Judge of Family Court, Broome County.  
Opinion Per Curiam.  
Judges Stein, Fahey, Garcia, Wilson and Feinman  
concur.  
Chief Judge DiFiore and Judge Rivera took no part.

## MOTIONS

2                    Mo. No. 2020-388  
In the Matter of Zahyre A.

Orange County Department of Social  
Services,  
    Respondent;  
Faye A.,  
    Appellant.  
(And Another Proceeding.)

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

2                    Mo. No. 2020-588  
The People &c.,  
    Respondent,  
    v.  
Kathon Anderson,  
    Appellant.

Motion for assignment of counsel granted and Paul  
Skip Laisure, Esq., Appellate Advocates, 111 John  
Street, 9th Floor, New York, NY 10038 assigned as  
counsel to the appellant on the appeal herein.

2                    Mo. No. 2020-697  
Anna Aybar, et al.,  
    Appellants,  
    v.  
Jose A. Aybar, Jr., et al.,  
    Defendants,  
Ford Motor Company et al.,  
    Respondents;  
U.S. Tires and Wheels of Queens, LLC,  
    Nonparty-Respondent.

Motion by New York State Trial Lawyers'  
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.

2                   SSD 50  
In the Matter of Ann Corrigan,  
          Appellant,  
Roland Nicholson,  
          Appellant,  
          v.  
Johnisha Minton,  
          Respondent,  
Westchester County Department of Social  
Services,  
          Respondent.

Appeal, insofar as taken by Ann Corrigan, dismissed without costs, by the Court *sua sponte*, upon the ground that Ann Corrigan is not aggrieved by the order appealed from; appeal, insofar as taken by Roland Nicholson, dismissed without costs, by the Court *sua sponte*, upon the ground that no appeal lies as of right from the unanimous order of the Appellate Division absent the direct involvement of a substantial constitutional question (*see* CPLR 5601).

2                   Mo. No. 2020-576  
In the Matter of Daniel D.

Motion for leave to appeal denied.

Administration for Children's Services,  
          Respondent;  
Diana T.,  
          Appellant.

4                   Mo. No. 2020-673  
In the Matter of State of New York,  
          Appellant,  
          v.  
Donald G.,  
          Respondent.

Motion for poor person relief granted.

1                   Mo. No. 2020-637  
The People &c.,  
          Respondent,  
          v.  
Rafael Gonzalez,  
          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                   SSD 54  
In the Matter of State of New York,  
          Respondent,  
          v.  
Jesus H.,  
          Appellant.

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

4 Mo. No. 2020-594  
In the Matter of Carmela H. et al.

Onondaga County Department of Children  
and Family Services,  
Respondent;  
Danielle F.,  
Appellant,  
et al.,  
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2020-706  
In the Matter of Town of Irondequoit et al.,  
Appellants,  
v.  
County of Monroe, et al.,  
Respondents.

Motion by Association of Towns of the State of New York for leave to appear amicus curiae on the appeal herein granted only 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. 2020-527  
In the Matter of Jayden J., &c.

Florence J.,  
Appellant;  
The New York Foundling Hospital,  
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.

4 Mo. No. 2020-327  
Ersin Konkur,  
Appellant,  
v.  
Utica Academy of Science Charter School,  
Defendant,  
Turkish Cultural Center and Highway  
Education, Inc.,  
Respondent.

Motion for leave to appeal granted.

1 Mo. No. 2020-423  
In the Matter of Sincere L., &c.

Romone L.,  
Appellant;  
Administration for Children Services,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2020-484  
In the Matter of Thomas Peter Lynch,  
Respondent,  
v.  
Maria Lynn Rose Fittipaldi-Lynch,  
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2020-515  
In the Matter of Maria M.  
  
Erie County Department of Social Services,  
Respondent;  
Kristin M.,  
Appellant.

Motion for leave to appeal denied.

2 SSD 48  
Nella Manko,  
Appellant,  
v.  
Lenox Hill Hospital,  
Respondent.

Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that the orders appealed from do not finally determine the action within the meaning of the Constitution.  
Chief Judge DiFiore took no part.

2 SSD 47  
Nella Manko,  
Appellant,  
v.  
Lenox Hill Hospital,  
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.  
Chief Judge DiFiore took no part.

1                    SSD 53  
In the Matter of Nella Manko,  
                  Appellant,  
                  v.  
William F. Mastro, &c., et al.,  
                  Respondents.

Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that no appeal lies from the unanimous order of the Appellate Division absent the direct involvement of a substantial constitutional question (*see* CPLR 5601).  
Chief Judge DiFiore took no part.

1                    SSD 52  
In the Matter of Charles Thomas Michelsen,  
                  Appellant,  
                  v.  
City University of New York et al.,  
                  Respondents.

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

3                    SSD 56  
In the Matter of the Claim of Bruce Muller,  
                  Claimant,  
                  v.  
Square Deal Machining, Inc., et al.,  
                  Appellants.  
Workers' Compensation Board,  
                  Respondent.

Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that no appeal lies as of right from the unanimous order of the Appellate Division absent the direct involvement of a substantial constitutional question (*see* CPLR 5601).

4                    Mo. No. 2020-482  
In the Matter of Jeremiah A. Nickerson,  
                  Respondent,  
                  v.  
Victoria A. Woods,  
                  Appellant.

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

2                    SSD 49  
In the Matter of S.O.,  
                  Appellant,  
                  v.  
Esther Morgenstern, &c., et al.,  
                  Respondents.

Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that no appeal lies to this Court from the decision of an individual Justice of the Appellate Division.

2                    Mo. No. 2020-687  
The People &c.,  
    Respondent,  
    v.  
Nolis Ogando,  
    Appellant.

Motion by New York State Defenders Association, et al. for leave to appear amici curiae on the appeal herein granted only to the extent that the proposed letter brief is accepted as filed. An original and two copies of the letter brief must be filed and the letter brief submitted in digital format within seven days.

2                    SSD 55  
In the Matter of Omar Rosales, &c.,  
    Appellant;  
Grievance Committee for the Second,  
Eleventh and Thirteenth Judicial Districts,  
    Respondent.

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

2                    Mo. No. 2020-686  
The People &c.,  
    Respondent,  
    v.  
Kester Sandy,  
    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. 2020-652  
Sutton 58 Associates LLC,  
    Appellant,  
    v.  
Philip Pilevsky, et al.,  
    Respondents.

Motion by Brooklyn Bar Association Volunteer Lawyers Project 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.

Mo. No. 2020-657

The People &c.,  
Respondent,  
v.  
Carlos Torres,  
Appellant.

Motion by City of New York for leave to appear amicus curiae on the appeals 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.

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The People &c.,  
Respondent,  
v.  
Dave Lewis,  
Appellant.

Motion for reargument of motion for leave to appeal denied.

3 Mo. No. 2020-502  
In the Matter of Ellen TT.,  
Respondent,  
v.  
Parvaz UU.,  
Appellant.

Motion by New York State Foreclosure Defense Bar for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. One copy of the brief must be served and the brief submitted in digital format within seven days.

2 Mo. No. 2020-728  
US Bank National Association, &c.,  
Respondent,  
v.  
Kenyatta Nelson, et al.,  
Appellants.  
et al.,  
Defendants.

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

3 SSD 51  
In the Matter of the Claim of Amanda K.  
Vignone,  
Respondent.  
Peregrine Enterprises, Inc., &c.,  
Appellant.  
Commissioner of Labor,  
Respondent.



4                    Mo. No. 2020-483  
In the Matter of Trondell Wallace,  
                         Respondent,  
                         v.  
Madaria Eure,  
                         Appellant.

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

3                    Mo. No. 2020-681  
The People &c.,  
                         Respondent,  
                         v.  
Alonte J. White,  
                         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. 2020-641  
The People &c. ex rel. Steve G. Williams,  
&c.,  
                         Appellant,  
                         v.  
Cynthia Brann, &c., et al.,  
                         Respondents.

Motion for leave to appeal denied.