

TESTIMONY BY ROBERT L. SCHULZ¹
Before The
Commission on Legislative, Judicial and Executive Compensation
October 31, 2023

Good day.

My name is Robert Louis Schulz.

I am a veteran of the U.S. Air Force and a graduate of one of the five federal Academies. I have had a successful career at the General Electric Company and I have had successful stints of employment in State and federal governments pursuant to the personal requests of Connecticut Governor Thomas Meskill, New York Governor Hugh Carey and then the U.S. EPA Administrator Doug Costle to assist in the development of statutes and programs to solve a widespread public problem.

Along the way I have taken the oath to support and defend the constitutions of New York State and the United States.

While our State and U.S. Constitutions represent a political *ideology*, I am not “political” in the common use of the word.

Following a significant eye opening experience in 1979, which caused me to see government as self-serving and ready to operate outside the boundaries drawn around its power in violation of the law, I have devoted my life, *for the past 44 years* to holding those in government accountable to the rule of law, including our State and U.S. Constitutions and laws pursuant thereto *with full reliance on the natural right of the People to petition the government for a redress of grievances*, a right secured by the 1st Amendment to the U.S. Constitution and by *every* State Constitution.

¹ Chairman, We The People Foundation for Constitutional Education, Inc. (1997)
Chairman, We The People Congress, Inc. (1997)
Chairman, We The People of New York, Inc. (2011)

A thorough historical review of that Right reveals it includes an obligation on the part of the government to provide a *meaningful* response to a proper petition and the People's right of enforcement in the absence of a meaningful response.

I, as the lead plaintiff, together with other citizens of the State have on many, many occasions petitioned the judiciary in New York State for redress of clear violations of the State Constitution, and laws pursuant thereto, *by New York State's legislative and executive departments.*

We were quite successful in the 1980's and early 1990's. For instance we succeeded in our cases against a Town and County for violating a State Statute and in separate cases against Governor Mario Cuomo and Comptroller McCall for using public funds in aid of private undertakings -- a violation of the State Constitution. In those days we also succeeded in having a State statute declared unconstitutional.

Then, I suppose due to intense political pressure, things changed. Thereafter, the judicial department united with the legislative and executive to proceed full steam ahead, damning the torpedoes being fired by the Constitution and our organization.

First, in our case against the State's incurrence of debt without voter approval, the Court of Appeals determined the authorizing statute to be unconstitutional but dismissed our challenge on the basis of laches *even though the bonds had not yet been sold.*

While that decision was on its way down, the legislative and executive departments were already on their way to incurring millions of dollars in additional state debt without voter approval. We sued. The DOJ hired a prominent D.C. lawyer, Arthur Lyman, to oppose me - the same attorney who was hired by Congress to grill Colonel Oliver North during its hearing on the Iran-Contra affair. The Court of Appeals adopted Lyman's argument ruling that if the legislative branch authorized the use of state funds to retire the bonds those funds would be "permissible gifts."

From then on, as if to say, "We've had enough of these constitution-grounded challenges to the power of our legislative and executive brothers and sisters," the Court of Appeals has dismissed each and every one of the dozens of well-plead appeals brought by us on the ground that the constitutional provision we had

proven was being violated by their colleagues was not *substantial* enough for the Court to look into.

For all intents and purposes, those judicial decisions have resulted in a judicial repeal of provisions of the Constitution!

For the past 30 years, when faced with our professional, intelligent, rational, fact-based, constitution-grounded challenges to actions of the legislative and executive departments, the judicial department of this State has united itself with the legislative and executive departments in an all-to-apparent effort *to have government gain ground*.

Judicial repeal of provisions of the Constitution has become the norm. I repeat, prohibitions and mandates prescribed by the Constitution are being repealed, not by the People at the ballot box, but ultimately at the whim of the Judiciary.

I'm here today because as government has been gaining ground in this constitutionally offensive manner, liberty has axiomatically been losing ground.

As Hamilton wrote in Federalist No. 78, "liberty can have nothing to fear from the judiciary alone, but would have everything to fear from its union with either (or both) of the other departments."

By having the judiciary running interference for them, including most egregiously the unconstitutional addition by the Court of Appeals of a *substantiality* requirement to appeals submitted to it as of right under Article VI of the constitution, the legislative and executive departments have been given a green light to abuse their power, given a green light to violate the prohibitions and mandates prescribed by the People in their State Constitution, nullifying rights secured to the People by the terms of the State Constitution such as borrowing money without voter approval, transferring public funds to private corporations in aid of private undertakings, introducing and immediately approving legislation in the absence of emergencies, and the list goes on.

Unconstitutionally adding a substantiality requirement in right of appeal cases confers discretion not unlike the discretion already available to the Court, as *constitutionally* authorized in motions for leave to appeal.

Just last week, the Court of Appeals did so again in our constitutional challenge to the Legislative Bills introduced by the Governor in 2022, immediately approved by the Legislature and signed by the Governor, that authorized the transfer of \$600 million dollars from the public treasury of the State and \$250 million dollars from the public treasury of Erie County to be used in aid of a private corporation's private undertaking – the construction of a facility to be used exclusively by the Buffalo Bills, a private corporation, to which members of the public will go for their private purpose of purchasing non-essential, privately produced goods and services. Such action by the judicial department amounts to a judicial repeal of Article VII, Section 8 and Article VIII, Section 1, which prohibit such transfers of public funds, and opens the door to public funding of all private facilities such as, but in no way limited to private cruise ships, golf courses, super markets, movie theaters, etc.

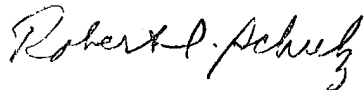
The New York State judiciary has clearly and, I would add, tyrannically united itself to the other two departments in an effort of long standing duration to chip away and shift the ultimate power in the state of New York from the People to the Government – where according to the history, meaning, effect and significance of the provisions of the Constitution it clearly does not now and was never intended to reside.

Attached is a copy of decisions by the NY Court of Appeals dismissing 22 of our well-pled challenges to actions taken by the legislative and/or executive departments of this State in violation of specific provisions of our State Constitution, each on the ground that no “*substantial*” constitutional question is directly involved.

I urgently request that the Commission not recommend any increase in judicial compensation until the Commission undertakes *and completes* an investigation of my complaint presented here today. I stand ready to assist the Commission. For instance, I have a full record of our cases that produced upwards of 175 decisions by the judicial department of the State of New York.

Finally, and no offense intended, I am committed to the creation of the check-and-balance we the people overlooked in April of 1777 when we adopted our State Constitution and set into motion our Constitutional Republic. Sooner, rather than later, we will complete the task of institutionalizing citizen vigilance. There will be a new, permanent, state-wide organization with the sole purpose of comparing government policy, wherever it is being made, with the provisions of our State and federal Constitutions. It will petition the legislative and executive branches for redress of perceived violations, and enforce the rights secured to the People by the terms of the constitution in the absence of a meaningful response from those petitioned. We will add a new building to those buildings now occupied by our Legislative, Executive and Judicial departments. The building will house legal talent and all skill sets necessary to run a state-wide organization of constitution monitors and county and regional coordinators.

Thank you.

A handwritten signature in cursive script, reading "Robert P. Schulz". The signature is written in dark ink and is positioned below the "Thank you." text.

ATTACHMENT TO
TESTIMONY
BY
ROBERT L. SCHULZ

Before The
Commission on Legislative, Judicial and Executive Compensation
October 31, 2023

CIVIL CASES BY ROBERT L. SCHULZ, ET AL., ON APPEAL TO THE NEW YORK STATE COURT OF APPEALS FROM A JUDGMENT OR ORDER ENTERED UPON THE DECISION OF AN APPELLATE DIVISION OF THE SUPREME COURT WHICH FINALLY DETERMINED AN ACTION WHEREIN WAS DIRECTLY INVOLVED THE CONSTRUCTION OF THE CONSTITUTION OF THE STATE OF NEW YORK

and

WHICH WERE DISMISSED BY THE NEW YORK STATE COURT OF APPEALS "UPON THE GROUND THAT NO SUBSTANTIAL CONSTITUTIONAL QUESTION IS DIRECTLY INVOLVED."

1. Schulz, et. al., v. State, 1992 N.Y.LEXIS 3415
2. Schulz, et. al., v. State, 1994 N.Y. LEXIS 66
3. Schulz, et. al., v. State, 1994 N.Y. LEXIS 1112
4. Schulz, et. al., v. Town Board, 1995 LEXIS 308
5. Schulz, et. al., v. State, 1995, LEXIS 1393
6. Schulz, et al., v. Silver, 658 N.E. 2d 216
7. Schulz, et. al., v. New York State Bd. of Elections, 86 N.Y.2d 848
8. Schulz, et. al., v. Horseheads Cent. Sch. Dist. Bd. of Educ., 1996 N.Y. LEXIS 282
9. Schulz, et. al., v. Rush-Henrietta Cent. Sch. Dist. Bd. of Educ., 1996 N.Y. LEXIS 1016
10. Schulz, et. al., v. Galgano, 1996 N.Y. LEXIS 3072
11. Schulz, et. al., v. Town of Kingsbury, 1996 N.Y. LEXIS 4252

12. Schulz, et. al., v. State, 1997 N.Y. LEXIS 3604
13. Schulz, et. al., v. New York State Legislature, 1998 N.Y. LEXIS 3681
14. Schulz, et. al., v. Town Board, 1999 N.Y. LEXIS 151
15. Schulz, et. al., v. Pataki, 2000 N.Y. LEXIS 3289
16. Schulz, et. al., v. N.Y. State Legislature, 2001 N.Y. LEXIS 1830
17. Schulz, et. al., v. Town of Kingsbury, 2002 N.Y. LEXIS 4023
18. Schulz, et. al., v. N.Y. State Legislature, 2004 N.Y. LEXIS 1068
19. Schulz, et. al., v. N.Y. Exec., 2016 N.Y. LEXIS 249
20. Schulz, et. al., v. Cuomo, 2016 N.Y. LEXIS 371
21. Schulz, et. al., v. Silver, SSD 25, decided March 31, 2016
22. Schulz, et. al., v. State, SSD 40, decided October 19, 2023

Document: Schulz v. State, 1992 N.Y. LEXIS 3415 Actions ▾

◀ Results list ▶

Schulz v. State, 1992 N.Y. LEXIS 3415

Copy Citation

Court of Appeals of New York

September 22, 1992, Decided

Mo. No. 1069 SSD 81

Reporter

1992 N.Y. LEXIS 3415 | 80 N.Y.2d 924 | 602 N.E.2d 1126 | 589 N.Y.S.2d 310

In the Matter of Robert L. Schulz, et al., Appellants, v. The State of New York, et al., Respondents. Index No. 7854-91

Opinion



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

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Document: Schulz v. State, 1994 N.Y. LEXIS 66 Actions ▾

 Results list 

Schulz v. State, 1994 N.Y. LEXIS 66

Copy Citation

Court of Appeals of New York

January 18, 1994, Decided

Mo. No. 71 SSD 7

Reporter



1994 N.Y. LEXIS 66 | 63 N.Y.2d 919 | 532 N.E.2d 463 | 610 N.Y.S.2d 153

In the Matter of Robert L. Schulz, et al., Appellants, v. State of New York, et al., Respondents.

Opinion

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

2. Judge [Name] took no part.

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SD 11

Document: Schulz v. State, 1994 N.Y. LEXIS 1112 Actions ▾

◀ Results list ▶

Ⓢ Schulz v. State, 1994 N.Y. LEXIS 1112

Copy Citation

Court of Appeals of New York

May 10, 1994, Decided

Mo. No. 525 SSD 37

Reporter

1994 N.Y. LEXIS 1112 | 83 N.Y.2d 905 | 637 N.E.2d 276 | 614 N.Y.S.2d 387

In the Matter of Robert L. Schulz, et al., Appellants, v. State of New York et al., Respondents. Index No. 2572-92

Opinion

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

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Document: Schulz v. Town Bd., 1995 N.Y. LEXIS 308 Actions ▾

[Results list](#)**Schulz v. Town Bd., 1995 N.Y. LEXIS 308****Copy Citation**

Court of Appeals of New York

February 21, 1995, Decided

Mo. No. 236 SSD 12

Reporter

1995 N.Y. LEXIS 308 | 85 N.Y.2d 857 | 624 N.Y.S.2d 374

In the Matter of Robert L. Schulz, et al., Appellants, v. The Town Board of Caneadea, et al., Respondents.

Opinion[1] Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that no substantial constitutional question is directly involved.   



Document: Schulz v. State, 1995 N.Y. LEXIS 1393 Actions ▾

◀ Results list ▶

ⓐ Schulz v. State, 1995 N.Y. LEXIS 1393

Copy Citation

Court of Appeals of New York

March 30, 1995, Decided

371 SSD 20

Reporter

1995 N.Y. LEXIS 1393 | 85 N.Y.2d 923 | 650 N.E.2d 1326 | 627 N.Y.S.2d 324

Robert L. Schulz, et al., Appellants, v. State of New York, et al., Respondents.

Opinion

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

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Document: Schulz v. Silver, 658 N.E.2d 216 Actions ▾

A Schulz v. Silver, 658 N.E.2d 216**Copy Citation**

Court of Appeals of New York

September 18, 1995, Submitted ; September 26, 1995, Decided

Mo. No. 1280 SSD 83

Reporter

658 N.E.2d 216 | [1995 N.Y. LEXIS 2716](#) | 86 N.Y.2d 835 | 634 N.Y.S.2d 438


In re: Matter of Robert L. Schulz, Appellant, v. Sheldon Silver et al., Respondents.

Prior History: Reported below, [212 AD2d 293](#).**Core Terms**

sua sponte, costs

Opinion

[216] Appeal, insofar as taken from that portion of the Appellate Division order which affirmed Supreme Court's order denying appellant's motion for a preliminary injunction, dismissed, without costs, by the Court of Appeals, *sua sponte*, upon the ground that that portion of the order appealed from does not fairly determine the action/proceeding within the meaning of the Constitution; appeal, insofar as taken from the remainder of the Appellate Division order, dismissed, without costs, by the Court of Appeals, *sua sponte*, upon the ground that no substantial constitutional question is directly involved.

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Document: Schulz v. New York State Bd. of Elections, 86 N.Y.2d 848 Actions ▾

◀ Results list ▶

Ⓜ Schulz v. New York State Bd. of Elections, 86 N.Y.2d 848

Copy Citation

Court of Appeals of New York

October 4, 1995, Submitted ; October 6, 1995, Decided

Mo. No. 1346

Reporter

86 N.Y.2d 848 | 1995 N.Y. LEXIS 3722 | 658 N.E.2d 217 | 634 N.Y.S.2d 439

In Matter of Robert L. Schulz et al., Appellants, v. New York State Board of Elections et al., Respondents.

Editor History: Reported below, 214 AD2d 226.

Opinion

[848] On the Court's own motion, appeal dismissed, without costs, upon the ground that no substantial constitutional question is directly involved. Motion for leave to amend denied. Motion for a preference dismissed as academic.

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Document: Schulz v. Horseheads Cent. Sch. Dist. Bd. of Educ., 1996 N.Y. LEXIS 282 Actions ▾

◀ Results list ▶

Ⓢ Schulz v. Horseheads Cent. Sch. Dist. Bd. of Educ., 1996 N.Y. LEXIS 282

Copy Citation

Court of Appeals of New York

February 20, 1996, Decided

Mo. No. 201, SSD 16

Reporter

1996 N.Y. LEXIS 282 | 37 N.Y.2d 967 | 664 N.E.2d 1259 | 642 N.Y.S.2d 196

In the Matter of Robert Schulz, et al., Appellants, et al., Petitioners, v. Horseheads Central School District Board of Education, et al., Respondents.

Opinion

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

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Schulz v. Rush-Henrietta Cent. Sch. Dist. Bd. of Educ., 1996 N.Y. LEXIS 1016

Copy Citation

Court of Appeals of New York

February 20, 1996, Submitted ; April 30, 1996, Decided

Mo. No. 180

Reporter

1996 N.Y. LEXIS 1016 | 53 N.Y.2d 843 | 667 N.E.2d 334 | 644 N.Y.S.2d 684

In the Matter of **Robert L. Schulz** et al., Appellants, v. Rush-Henrietta Central School District Board of Education et al., Respondents. State of New York, Intervenor.

Prior History: [1] Reported below, [222 AD2d 1015](#).

Opinion

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

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Document: Schulz v. Galgano, 1996 N.Y. LEXIS 3072 Actions ▾

Results list

A Schulz v. Galgano, 1996 N.Y. LEXIS 3072**Copy Citation**

Court of Appeals of New York

September 9, 1996, Submitted ; September 19, 1996, Decided

Mo. No. 1251 SSD 77

Reporter

1996 N.Y. LEXIS 3072 | 88 N.Y.2d 1015 | 671 N.E.2d 1272 | 648 N.Y.S.2d 875

In the Matter of **Robert Schulz** et al., Appellants, v. Virginia Galgano et al., Respondents.Prior History: [1] Reported below: 224 A.D.2d 535.**Core Terms***sua sponte***Opinion**

Appeal, insofar as taken from that portion of the Appellate Division order that affirmed that part of Supreme Court's order denying appellants' motions for a preliminary injunction and to hold respondent Galgano in contempt, dismissed, without costs, by the Court of Appeals, *sua sponte*, upon the ground that that portion of the Appellate Division order does not finally determine the action/proceeding within the meaning of the Constitution; appeal otherwise dismissed, by the Court of Appeals, *sua sponte*, upon the ground that no substantial constitutional question is directly involved.

Schulz v. Town of Kingsbury, 1996 N.Y. LEXIS 4252

Copy Citation

Court of Appeals of New York

November 19, 1996, Decided

Mo. No. 1491, SSD 100

Reporter

1996 N.Y. LEXIS 4252 | 89 N.Y.2d 859 | 675 N.E.2d 1234 | 653 N.Y.S.2d 281

Robert L. Schulz, et al., Appellants, et al., Petitioner, v. Town of Kingsbury, et al., Respondents.


Opinion

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

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Document v. Schulz v. State, 1997 N.Y. LEXIS 3604 Actions ▾

◀ Results list ▶

A Schulz v. State, 1997 N.Y. LEXIS 3604**Copy Citation**

Court of Appeals of New York

October 21, 1997, Decided

Mo. No. 1264 SSD 84

Reporter

1997 N.Y. LEXIS 3604 | 90 N.Y.2d 1007 | 688 N.E.2d 1383 | 666 N.Y.S.2d 101

Case Name: Robert L. Schulz, et al., Appellants, v. State of New York, et al., Respondents.

Opinion

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

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Document: Schulz v. New York State Legislature, 1998 N.Y. LEXIS 3681 Actions ▾

◀ Results list ▶

Ⓢ Schulz v. New York State Legislature, 1998 N.Y. LEXIS 3681

Copy Citation

Court of Appeals of New York

October 20, 1998, Decided

Mo. No. 1217 SSD 65

Reporter

1998 N.Y. LEXIS 3681 | 92 N.Y.2d 946 | 704 N.E.2d 229 | 681 N.Y.S.2d 476

Robert L. Schulz, Appellant, v. New York State Legislature, et al., Respondents.

Notice: (1) DECISION WITHOUT PUBLISHED OPINION

Opinion

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

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Document: Schulz v. Town Bd., 1999 N.Y. LEXIS 151 Actions ▾

◀ Results list ▶

ⓐ Schulz v. Town Bd., 1999 N.Y. LEXIS 151

Copy Citation

Court of Appeals of New York

February 18, 1999, Decided

Mo. No. 167 SSD 5

Reporter

1999 N.Y. LEXIS 151 | 93 N.Y.2d 847 | 710 N.E.2d 1093 | 688 N.Y.S.2d 494

Robert L. Schulz, et al., Appellants, v. Town Board of the Town of **Queensbury**, et al., Respondents.

Notice: [1] DECISION WITHOUT PUBLISHED OPINION

Opinion

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

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Document: Schulz v. Pataki, 2000 N.Y. LEXIS 3289 Actions ▾

Results list

A Schulz v. Pataki, 2000 N.Y. LEXIS 3289**Copy Citation**

Court of Appeals of New York

September 7, 2000, Decided

Mo. No. 950 SSD 40

Reporter

2000 N.Y. LEXIS 3289 | 95 N.Y.2d 886 | 738 N.E.2d 780 | 715 N.Y.S.2d 376

In the Matter of **Robert L. Schulz**, Appellant, v. George E. Pataki, Individually and as Governor of the State of New York, et al., Respondents.

Notice: [1] DECISION WITHOUT PUBLISHED OPINION

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

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Document: Schulz v. N.Y. State Legislature, 2001 N.Y. LEXIS 1830 Actions ▾

◀ Results list ▶

A Schulz v. N.Y. State Legislature, 2001 N.Y. LEXIS 1830

Copy Citation

Court of Appeals of New York

June 14, 2001, Decided

Mo. No. 623 SSD 41

Reporter

2001 N.Y. LEXIS 1830 | 96 N.Y.2d 853 | 754 N.E.2d 771 | 729 N.Y.S.2d 668

Robert L. Schulz et al., Appellants, v. New York State Legislature, et al., Respondents.

Notice: [1] DECISION WITHOUT PUBLISHED OPINION

Opinion

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

Justice Scalia took no part.

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◀ Results list ▶

Copy Citation

December 17, 2002, Decided

Reporter

Robert L. Schulz et al., Appellants, v. Town of Kingsbury et al., Respondents.

Notice: [1] DECISION WITHOUT PUBLISHED OPINION

Prior History: Schulz v. Town of Kingsbury, 296 A.D.2d 790, 745 N.Y.S.2d 308, 2002 N.Y. App. Div. LEXIS 7596 (3d Dep't 2002)

Opinion:

1. The Court shall grant a writ without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.

Document: Schulz v. N.Y. State Legislature, 2004 N.Y. LEXIS 1068 Actions ▾

◀ Results list ▶

ⓐ Schulz v. N.Y. State Legislature, 2004 N.Y. LEXIS 1068

Copy Citation

Court of Appeals of New York

May 13, 2004, Decided

Mo. No. 424 SSD 33

Reporter

2004 N.Y. LEXIS 1068 | 2 N.Y.3d 793 | 814 N.E.2d 463 | 781 N.Y.S.2d 291

Robert L. Schulz et al., Appellants v. New York State Legislature, et al., Respondents.

Notice: {1} DECISION WITHOUT PUBLISHED OPINION

Prior History: Schulz v. N.Y. State Legislature, 5 A.D.3d 885, 773 N.Y.S.2d 174, 2004 N.Y. App. Div. LEXIS 2536 (N.Y. App. Div. 3d Dep't, 2004)


Opinion

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

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Document: Schulz v. State of N.Y. Exec., 2016 N.Y. LEXIS 249 Actions

Results list

S Schulz v. State of N.Y. Exec., 2016 N.Y. LEXIS 249

Copy Citation

Court of Appeals of New York

February 23, 2016, Decided

No Number in Original

Reporter

2016 N.Y. LEXIS 249 | 2016 NY Slip Op 64928

Robert L. Schulz, et al., Appellants, et al., Plaintiffs, v State of New York Executive, et al., Respondents.

Notice: DECISION WITHOUT PUBLISHED OPINION

Prior History: Schulz v. State of New York Exec., Andrew Cuomo, Governor, 134 A.D.3d 52, 19 N.Y.S.3d 92, 2015 N.Y. App. Div. LEXIS 7825 (2015)

Judges: [1] Judge Steen took no part.

Opinion

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

Judge Steen took no part.

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Schulz v. Cuomo, 2016 N.Y. LEXIS 371 Actions ▾

◀ Results list ▶

Schulz v. Cuomo, 2016 N.Y. LEXIS 371

Copy Citation

Court of Appeals of New York

February 23, 2016, Decided

No Number in Original

Referred

2016 N.Y. LEXIS 371 2016 NY Slip Op 64929

Robert L. Schulz, Assistant, et al., Plaintiffs, v Andrew M. Cuomo et al., Respondents, et al., Defendants.

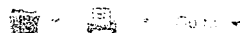
Noted: 1/1/2016 WITHOUT PUBLISHED OPINION

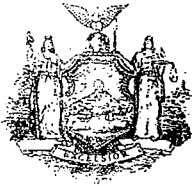
Judges: 1/1/2016 Judge DiFiore took no part.

Opinion

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

Judge DiFiore took no part.





*State of New York
Court of Appeals*

*John P. Asiello
Chief Clerk and
Legal Counsel to the Court*

*Clerk's Office
20 Eagle Street
Albany, New York 12207-1095*

Decided March 31, 2016

SSD 25

Robert L. Schulz,
Appellant.

Sheldon Silver, &c.,
Respondent.

Appeal, insofar as taken from that portion of the Appellate Division order dismissing the appeal from the October 2014 Supreme Court order, dismissed without costs, by the Court sua sponte, upon the ground that such portion of the order does not finally determine the action within the meaning of the Constitution; appeal otherwise dismissed, without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved. Chief Judge DiFiore took no part.

10/19/23

State of New York

Court of Appeals

*Decided and Entered on the
nineteenth day of October, 2023*

Present, Hon. Rowan D. Wilson, *Chief Judge, presiding.*

SSD 40

In the Matter of Robert L. Schulz, et al.,
Appellants,

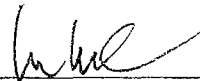
v.

State of New York, et al.,
Respondents.

Appellants having appealed to the Court of Appeals in the above title;

Upon the papers filed and due deliberation, it is

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



Lisa LeCours
Clerk of the Court

ADDENDUM TO TESTIMONY BY ROBERT L. SCHULZ
Before The
Commission on Legislative, Judicial and Executive Compensation
October 31, 2023

With reference to my comments regarding our case against the public funding of a new stadium in aid of the Buffalo Bills LLC, there have been some developments in the case since I prepared that testimony.

On the 19th of this month, the Clerk of the Court of Appeals signed what she claimed was a *sua sponte* Order dismissing our direct appeal on the ground that no substantial constitutional question is directly involved.

On the 23rd I filed a 4-page letter at the Court of Appeals arguing against the assertion that the Order was issued *sua sponte*, against an Order signed by the Clerk with no indication that the judges were actually involved and that the Court was obliged by Article VI of the Constitution to hear the appeal: I closed saying:

This is a most serious matter for if left to stand as is, the dismissal could, and most probably will be seen by those self-serving knuckleheads in the legislative and executive branches as a repeal, even though an un-American, unconstitutional judicial repeal of said provisions of the state constitution, thus setting the stage for the wide-spread, unconstitutional use of public funds for the construction of all sorts of facilities to which members of the public simply go to purchase goods and services and to be entertained.

It pains me to say so but unless your court reconsiders its decision and recognizes and honors its jurisdiction and properly addresses plaintiffs' complaint its action will be seen by the people as a contribution to a form of government unintended by the people of this state - the unrestrained use of authority and power.

On the 26th, the Motion Clerk responded saying the Oct. 19th document was an Order of the full Court and she set a return date of November 13th for the filing of opposition papers.

This morning I filed a letter at the Court requesting the names of the judges and how they voted and whether any of them gave any determination or direction in more detail than what was included in the Clerk's Oct. 19th letter – i.e., “that no substantial constitutional question is directly involved.”

Copies of said correspondence are attached hereto.

10/19/23

State of New York

Court of Appeals

*Decided and Entered on the
nineteenth day of October, 2023*

Present, Hon. Rowan D. Wilson, *Chief Judge, presiding.*

SSD 40

In the Matter of Robert L. Schulz, et al.,
Appellants,

v.

State of New York, et al.,
Respondents.

Appellants having appealed to the Court of Appeals in the above title;

Upon the papers filed and due deliberation, it is

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



Lisa LeCours
Clerk of the Court

10/23/23

Robert L. Schulz

2458 Ridge Road
Queensbury, NY 12804
(518) 361-8153
Bob@givemeliberty.org

RECEIVED

OCT 23 2023

NEW YORK STATE
COURT OF APPEALS

October 23, 2023

Lisa LeCours
Clerk of the Court
New York State Court of Appeals
20 Eagle Street
Albany, NY 12207-1095

2023 OCT 23 PM 3:50

Re: SSD 40
Matter of Schulz, et al., v. State of New York, et al.

Dear Ms. LeCours,

Today, I received your letter dated October 19, 2023 which stated in its entirety:

Appellants having appealed to the Court of Appeals in the above title;

Upon the papers filed and due deliberation, it is
ORDERED, that the appeal is dismissed without costs, by the Court *sua sponte*, upon the ground that no substantial constitutional question is directly involved.

You say the appeal was dismissed *sua sponte*. However, for the record, the "Order" dismissing the appeal was clearly not made of the Court's own accord; it was not made without prompting or a request having been made by a party to the case as evidenced by the August 4, 2023 letter to the Court by Defendant New York State's Assistant Solicitor General Dustin J. Brockner. Mr. Brockner stated in the opening paragraph, "Because this appeal fails to raise any substantial

constitutional questions, it should be dismissed. See C.P.L.R. 5601 (b)(1).” Mr. Brockner closed his letter stating, “Because the appeal fails to present any substantial constitutional question, the Court should dismiss the appeal for lack of jurisdiction.”

Regardless, who made the decision on behalf of the Court to dismiss the appeal after having received Plaintiffs-Appellants’ August 2, 2023, nine-page submission and its enclosures all in support of jurisdiction and Defendant’s – Appellee’s August 4, 2023 submission in opposition? Your letter indicates you the Clerk of the Court made the decision to dismiss the appeal. There is no indication the Judges of the Court made the decision. Assuming I am correct, how is it possible that a Clerk rather than the Judges of the Court has the authority to dismiss an appeal.

Regardless, I earnestly implore a reconsideration of the decision.

As the Record before the Court clearly shows, plaintiffs’ complaint rests squarely on defendant’s violation of two provisions of the New York State Constitution, Article VII, Section 8(1) and Article VIII, Section 1. In point of fact, the relief requested by plaintiffs in their complaint reads in it’s entirety:

“The relief requested herein is:

- a) a preliminary injunction and a final order declaring three provisions of the 2022-2023 New York State Capital Projects Appropriation Bill (A9004-D/S9004-D) and PART YY of the 2022-2023 Budget Bill titled Education, Labor and Family Assistance (ELFA) Bill (A9006-C/S8006-C), adopted and signed into law on or about April 10, 2022, to be violative of and repugnant to Article VII, Section 8.1 and Article VIII, Section 1 of the New York State Constitution and, therefore, null, void and abrogated, and
- b) for such other and further relief as to the court may seem just and proper.”

In other words, the matter directly involves the construction of the constitution of the State of New York – that is, the will of the people of the State, the will of the majority of the people. The people have clearly prohibited the movement of money from the public treasuries of the State and the Counties to private corporations in aid of private undertakings.

In addition, the will of the People of the State is also expressed in the constitution of the State of New York at Article VI, Section 3(b)(1) as follows:

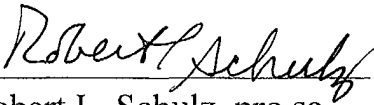
“Section 3.b. Appeals to the court of appeals may be taken in the classes of cases hereafter enumerated in this section; ... In civil cases and proceedings as follows: (1) As of right, from a judgment or order entered upon the decision of an appellate division of the supreme court which finally determines an action or special proceeding wherein is directly involved the construction of the constitution of the state or of the United States”

Said right of plaintiffs to appeal and obligatory jurisdiction of the court to hear the appeal has been underscored by the legislative and executive branches of the state by the plain language of CPLR 5601(b)(1).

This is a most serious matter for if left to stand as is, the dismissal could, and most probably will be seen by those self-serving knuckleheads in the legislative and executive branches as a repeal, even though an un-American, unconstitutional judicial repeal of said provisions of the state constitution, thus setting the stage for the wide-spread, unconstitutional use of public funds for the construction of all sorts of facilities to which members of the public simply go to purchase goods and services and to be entertained.

It pains me to say so but unless your court reconsiders its decision and recognizes and honors its jurisdiction and properly addresses plaintiffs' complaint its action will be seen by the people as a contribution to a form of government unintended by the people of this state - the unrestrained use of authority and power.

I beg you and the court to reconsider your decision which was decided and entered on the nineteenth day of October, 2023.


Robert L. Schulz, pro se

Cc: Dustin J. Brockner
Assistant Solicitor General
(by personal delivery this day)

Anthony Futia, Jr.
Plaintiff-Appellant
34 Custis Ave.
N. White Plains, NY 10604
(by email this day)

Joshua Trost
Plaintiff-Appellant
7346 Ward Road
Wheatfield, NY 14120
(by email this day)

William James
63 Windermere Blvd.
Amherst, NY 14226
(by email this day)



*State of New York
Court of Appeals*

*Lisa LeCours
Chief Clerk and
Legal Counsel to the Court*

10/26/23
*Clerk's Office
20 Eagle Street
Albany, New York 12207-1095*

October 26, 2023

Robert L. Schulz
2458 Ridge Road
Queensbury, NY 12804

Re: Matter of Schulz v State of New York
Mo. No. 2023-719 (Pin No. 80981)

Dear Mr. Schulz:

I acknowledge receipt of your letter dated October 23, 2023.

The October 19, 2023 document referred to in your letter is an order of the full Court, signed by the Clerk of the Court pursuant to CPLR 2219 (b), not a determination made by the Clerk of the Court.

Your letter dated October 23, 2023 requests reconsideration of the Court's dismissal order. Your letter will be submitted to the Court as a motion for reconsideration in the above title on the return date of November 13, 2023. Papers opposing the motion may be served and filed on or before November 13, 2023. "Filed" means receipt of the paper document by the Clerk's Office.

The \$45 civil motion fee required by Rule 500.3 was not located with your letter. By return mail, please remit the \$45 fee in a form permitted by Rule 500.3 or proof of exemption from the fee.

Digital Filing Requirement

In addition to the paper filing, the Court's Rules require the companion submission in digital format of certain documents (*see* Rule 500.2). For a motion for reconsideration, the moving party must upload a copy of the motion and any party opposing the motion must upload a copy of their opposition to the motion. Please note that uploading digital submissions does not satisfy the service or filing requirements of the CPLR or the Court's Rules of Practice.

Matter of Schulz v State of New York

Mo. No. 2023-719 (Pin No. 80981)

-Page 2-

The documents must be uploaded via the **Companion Filing Upload Portal** accessed through the Court's website (www.nycourts.gov/ctapps) using the motion number and Pin No. listed above. Technical Specifications and Naming Instructions for the portal are available on the Court's website. All companion digital filings must be submitted no later than seven days after the return date of the motion.

Questions about the Court's Rules for motions may be directed to the Clerk's Office at (518) 455-7705.

Very truly yours,

A handwritten signature in cursive script, reading "Rachael M. MacVean", followed by a horizontal line.

Rachael M. MacVean
Chief Motion Clerk

cc: Dustin J. Brockner, Esq.
Anthony Futia Jr.
Joshua Trost
William James

Robert L. Schulz

2458 Ridge Road
Queensbury, NY 12804
(518) 361-8153
Bob@givemeliberty.org

October 31, 2023

Rachael M. MacVean
Chief Motion Clerk
New York State Court of Appeals
20 Eagle Street
Albany, NY 12207-1095

Re: Matter of Schulz v State of New York
Mo. No. 2023-719 (Pin No. 80981
SSD 40

Dear Ms. MacVean,

I acknowledge receipt of your letter dated October 26, 2023.

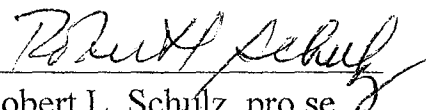
Enclosed is the requested \$45 civil motion fee in the form of a money order payable to "State of New York, Court of Appeals."

You say the October 19, 2023 letter signed by Ms. LeCours, "is an order of the full Court, signed by the Clerk of the Court pursuant to CPLR 2219(b)."

No offense intended but I respectfully request the name of the judges of "the full court" who voted and how they voted on this extremely important constitutional matter, and whether any of the judges of the full court gave any "determination or direction" in more detail than what is included in Ms. LeCours' October 19, 2023 letter – i.e., "that no substantial constitutional question is directly involved."

Finally, you refer to Rule 500.2's requirement for a companion submission of documents in digital format. Please note that Pursuant to Rule 500.2 (e) Appellants' respectfully requested relief from the Court's Digital Filing Requirements. See Appellants' August 2, 2023 Jurisdictional Response, page 8. May Appellants assume that for the reasons given they continue to be relieved from Court's Digital Filing Requirements going forward?

Respectfully submitted,


Robert L. Schulz, pro se

Cc: Dustin J. Brockner
Assistant Solicitor General
(by personal delivery this day)

Anthony Futia, Jr.
Plaintiff-Appellant
34 Custis Ave.
N. White Plains, NY 10604
(by email this day)

Joshua Trost
Plaintiff-Appellant
7346 Ward Road
Wheatfield, NY 14120
(by email this day)

William James
63 Windermere Blvd.
Amherst, NY 14226
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