

# CONNECTICUT LAW JOURNAL



Published in Accordance with  
General Statutes Section 51-216a

VOL. LXXX No. 29

January 15, 2019

244 Pages

## Table of Contents

### CONNECTICUT REPORTS

|   |    |
|---|----|
| Marquez v. Commissioner of Correction, 330 C 575 . . . . .  | 3  |
| <i>Habeas corpus; claim that petitioner's due process rights were violated when state failed to disclose leniency agreement with cooperating witness and to correct witness' allegedly false testimony that no such agreement existed; denial of certification to appeal from habeas court's judgment denying habeas petition; certification from Appellate Court; whether Appellate Court correctly concluded that habeas court did not abuse its discretion in denying petition for certification to appeal from habeas court's judgment; whether lack of disclosure of leniency agreement to petitioner and failure to correct witness' allegedly false testimony that no such agreement existed were material for purposes of Brady v. Maryland (373 U.S. 83); claim that court should invoke its supervisory authority over administration of justice to require state to disclose any representation by state's attorney to cooperating witness concerning potential ultimate disposition of witness' pending criminal case before witness testifies.</i> |    |
| State v. Gayle (Order), 330 C 958 . . . . .   | 44 |
| State v. Washington (Order), 330 C 958 . . . . .  | 44 |
| Volume 330 Cumulative Table of Cases . . . . .  | 47 |

### CONNECTICUT APPELLATE REPORTS

|   |      |
|---|------|
| Dubinsky v. Reich, 187 CA 255 . . . . .   | 151A |
| <i>Legal malpractice; motion to dismiss; subject matter jurisdiction; absolute immunity; claim that trial court improperly concluded that defendants were entitled to absolute immunity; whether complaint was grounded on any conduct by defendant attorney in which she acted outside role of statutory (§ 46b-54) court-appointed guardian ad litem for plaintiff's minor child; claim that granting absolute immunity to guardians ad litem is contrary to public policy.</i>   |      |
| Ham v. Commissioner of Correction, 187 CA 160 . . . . .   | 56A  |
| <i>Habeas corpus; whether habeas corpus abused its discretion in denying petition for certification to appeal; claim that prosecutor failed to disclose material exculpatory evidence concerning police witness; claim that prior habeas counsel rendered ineffective assistance that was prejudicial to petitioner by failing to pursue claims that petitioner's criminal trial counsel rendered ineffective assistance that was prejudicial to petitioner.</i>  |      |
| Hoffkins v. Hart-D'Amato, 187 CA 227 . . . . .  | 123A |
| <i>Unpaid legal fees; whether trial court abused its discretion when it denied motion for disqualification of trial judge; whether defendant met burden of showing reasonable appearance of impropriety; whether there were any instances of impropriety or bias in record; whether trial court abused its discretion in refusing to admit unredacted transcript as full exhibit.</i>   |      |
| Norris v. Trumbull, 187 CA 201 . . . . .  | 97A  |
| <i>Negligence; whether trial court properly denied motion to dismiss on ground of sovereign immunity; claim that trial court improperly determined that role of defendant regional educational service center in supervising students committed to its care and custody was municipal function not shielded by doctrine of sovereign immunity; claim that defendant acted as agent of state when overseeing care and safety of children enrolled in its schools and programs; whether criteria for determining when entity properly can assert sovereign immunity defense weighed</i> |      |

(continued on next page)

*against concluding that defendant acted as arm of state with respect to any duty it may have had to supervise minor plaintiff; whether enabling legislation demonstrated that defendant was not created by statute (§ 10-66a et seq.); whether statutory language supported conclusion that legislature intended for entities like defendant to be treated like state agent for all purposes; whether defendant was financially dependent on state; whether record indicated that state had any direct oversight or control over defendant, its property or its operations other than to conduct annual audit of finances and evaluation of programs and services; whether judgment against defendant would have direct adverse effect on state.*

State v. Bethea, 187 CA 263 . . . . . 159A

*Falsely reporting incident in second degree; whether evidence was sufficient to sustain defendant's conviction of falsely reporting incident in second degree; reviewability of claim that verdict returned by jury was legally inconsistent; claim that search warrant for cell phone records and arrest warrant were obtained without probable; reviewability of unpreserved claims that trial court improperly permitted witness to make in-court identification in absence of prior nonsuggestive out-of-court identification, and that trial court erred by admitting testimony of eyewitness and defendant's out-of-court statements; whether unpreserved claims were evidentiary in nature; claim that prosecutor improperly withheld testimony of eyewitness to evading incident in violation of Brady v. Maryland (373 U.S. 83); whether evidence was suppressed within meaning of Brady.*

State v. Hanisko, 187 CA 237. . . . . 133A

*Possession of child pornography in second degree; claim that trial court improperly denied motion to suppress evidence seized from property where defendant resided because information in search and seizure warrant affidavit was stale at time that search warrant was issued; whether trial court correctly determined that probable cause existed to support issuance of search and seizure warrant; whether trial court properly denied motion to suppress evidence seized pursuant to search and seizure warrant; reviewability of claim that defendant was entitled to judgment of acquittal on ground that trial court's failure to recognize that oppressive delay between execution of search and seizure warrant in 2009 and issuance of arrest warrant in 2014 resulted in violation of his right to due process; failure of defendant to file pretrial motion to dismiss.*

State v. Joseph B., 187 CA 106. . . . . 2A

*Sexual assault in first degree; sexual assault in third degree; risk of injury to child; whether trial court abused its discretion in denying motion for bill of particulars; whether defendant was prejudiced by trial court's denial of motion for bill of particulars; claim that trial court improperly admitted evidence that victim tested positive for sexually transmitted disease; whether evidence pertaining to victim's diagnosis was unduly prejudicial; claim that trial court abused its discretion in denying motion to preclude evidence of text messages from defendant to victim's mother; claim that evidence of text messages should have been precluded as untimely because state knew or should have known of text messages prior to disclosure at start of trial; claim that evidence of text messages should have been precluded as sanction under applicable rule of practice (§ 40-5).*

(continued on next page)

**CONNECTICUT LAW JOURNAL**  
(ISSN 87500973)

Published by the State of Connecticut in accordance with the provisions of General Statutes § 51-216a.

Commission on Official Legal Publications  
Office of Production and Distribution  
111 Phoenix Avenue, Enfield, Connecticut 06082-4453  
Tel. (860) 741-3027, FAX (860) 745-2178  
www.jud.ct.gov

RICHARD J. HEMENWAY, *Publications Director*

Published Weekly – Available at <https://www.jud.ct.gov/lawjournal>

Syllabuses and Indices of court opinions by  
ERIC M. LEVINE, *Reporter of Judicial Decisions*  
Tel. (860) 757-2250

---

The deadline for material to be published in the Connecticut Law Journal is Wednesday at noon for publication on the Tuesday six days later. When a holiday falls within the six day period, the deadline will be noon on Tuesday.

Truskauskas v. Zoning Board of Appeals, 187 CA 150 . . . . . 46A  
*Zoning appeal; whether trial court properly found plaintiff in contempt for wilfull violation of stipulated judgments that prohibited him from conducting commercial activities at his residential property and using dump truck there as part of contracting business or for other commercial purposes; claim that trial court erroneously interpreted stipulation to encompass total prohibition against use of dump truck for any commercial purposes, including those that occurred off of plaintiff's property.*

Villages, LLC v. Longhi, 187 CA 132. . . . . 28A  
*Fraud; intentional tortious interference with business expectancy; whether trial court properly denied motion for summary judgment as to liability; whether trial court properly granted motion for summary judgment; claim that trial court improperly determined defendant was not collaterally estopped from disputing liability because she was not party to prior action or in privity with planning and zoning commission; whether defendant and planning and zoning commission had identity of interest so as to share same legal right; whether trial court properly determined that plaintiff failed to present evidence that would sufficiently support essential elements of claim for fraudulent misrepresentation; whether trial court properly determined that no business relationship existed between plaintiff and planning and zoning commission.*

Volume 187 Cumulative Table of Cases . . . . . 179A

**NOTICES OF CONNECTICUT STATE AGENCIES**

Summaries . . . . . 1B

**MISCELLANEOUS**

Division of Criminal Justice—Notice of Job Apportunity . . . . . 1C