



*State of New York  
Court of Appeals*

*Stuart M. Cohen  
Clerk of the Court*

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

August 31, 2000

Mr. Charles E. Collins, III  
108 Brunswick Road  
Troy, NY 12180

Re: The People &c. ex rel. Collins v Perlman

Dear Mr. Collins

This will acknowledge receipt of your jurisdictional statement and notice of motion in the above matter.

Because you have simultaneously moved for leave to appeal and appealed as of right, the Court of Appeals, on its own motion, will consider its subject matter jurisdiction with respect to whether a substantial constitutional question is directly involved to support the appeal taken as of right (CPLR 5601[b]).

You and your adversary are invited to submit comments in writing upon the issue of subject matter jurisdiction. Such comments must be served and filed by the September 11, 2000 return date of the motion.

Very truly yours,

*Stuart M. Cohen*

Stuart M. Cohen

SA:jc

cc: Hon. Eliot Spitzer  
Hon. Sol Greenberg

New York Civil Practice Law and Rules §5601.? Appeals to the court of appeals as of right

(a) Dissent. An appeal may be taken to the court of appeals as of right in an action originating in the supreme court, a county court, a surrogate's court, the family court, the court of claims or an administrative agency, from an order of the appellate division which finally determines the action, where there is a dissent by at least two justices on a question of law in favor of the party taking such appeal.

(b) Constitutional grounds. An appeal may be taken to the court of appeals as of right:

1. from an order of the appellate division which finally determines an action where there is directly involved the construction of the constitution of the state or of the United States; and

2. from a judgment of a court of record of original instance which finally determines an action where the only question involved on the appeal is the validity of a statutory provision of the state or of the United States under the constitution of the state or of the United States.

(c) From order granting new trial or hearing, upon stipulation for judgment absolute. An appeal may be taken to the court of appeals as of right in an action originating in the supreme court, a county court, a surrogate's court, the family court, the court of claims or an administrative agency, from an order of the appellate division granting or affirming the granting of a new trial or hearing where the appellant stipulates that, upon affirmance, judgment absolute shall be entered against him.

(d) Based upon nonfinal determination of appellate division. An appeal may be taken to the court of appeals as of right from a final judgment entered in a court of original instance, from a final determination of an administrative agency or from a final arbitration award, or from an order of the appellate division which finally determines an appeal from such a judgment or determination, where the appellate division has made an order on a prior appeal in the action which necessarily affects the judgment, determination or award and which satisfies the requirements of subdivision (a) or of paragraph one of subdivision (b) except that of finality.