
The “officially released” date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the “officially released” date appearing in the opinion.

All opinions are subject to modification and technical correction prior to official publication in the Connecticut Reports and Connecticut Appellate Reports. In the event of discrepancies between the advance release version of an opinion and the latest version appearing in the Connecticut Law Journal and subsequently in the Connecticut Reports or Connecticut Appellate Reports, the latest version is to be considered authoritative.

The syllabus and procedural history accompanying the opinion as it appears in the Connecticut Law Journal and bound volumes of official reports are copyrighted by the Secretary of the State, State of Connecticut, and may not be reproduced and distributed without the express written permission of the Commission on Official Legal Publications, Judicial Branch, State of Connecticut.

STATE OF CONNECTICUT *v.* ERICK MALONE
(SC 210159)

Robinson, C. J., and McDonald, D'Auria,
Mullins, Ecker and Alexander, Js.

The motion of the defendant, Erick Malone, filed November 10, 2021, for permission to file a late appeal, having been presented to the court, it is hereby ordered denied.

May 10, 2023

McDONALD, MULLINS and ALEXANDER, Js. The defendant, Erick Malone, filed a motion for permission to file a late appeal on November 10, 2021. The state opposed the motion on November 19, 2021. This court permitted the parties to provide further argument on the issue in their appellate briefs in the defendant's separate, earlier appeal filed on April 27, 2021, which was transferred to this court on December 13, 2021, which we also decide today. See *State v. Malone*, 346 Conn. 552, A.3d (2023)

The court, having considered the motion for permission to file a late appeal, concludes that the defendant has failed to establish good cause for his late appeal. See Practice Book 60-2 (5). Accordingly, the court denies the defendant's motion for permission to file a late appeal.

The motion was considered and decided by a panel of six justices, who divided equally on the motion. The court has no rule for adding justices or judges to a panel for purposes of ruling on a pending motion. The motion therefore fails. See, e.g., *State v. Webb*, 238 Conn. 389, 563 n.20, 680 A.2d 147 (1996) (*Berdon, J.*, dissenting) (defendant's motion in *State v. Cobb*, 234 Conn. 735, 663 A.2d 948 (1995), was denied when three of six sitting justices did not vote in favor of granting it).