

MOTION NO. (1671/99) KA 99-00484. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JOHN MOORE, ALSO KNOWN AS FRANKIE, DEFENDANT-APPELLANT. --

Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., CENTRA, CARNI, LINDLEY, AND DEJOSEPH, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (899/02) KA 01-01182. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V TAJUAN PAUL, DEFENDANT-APPELLANT. -- Motion for writ of error

coram nobis granted. Memorandum: Defendant contends that he was denied effective assistance of appellate counsel because counsel failed to raise an issue on direct appeal, specifically, whether the *Antommarchi* waiver proffered by the attorney for defendant was valid. Upon our review of the motion papers, we conclude that the issue may have merit. The order of October 1, 2002 is vacated and this Court will consider the appeal de novo (see *People v LeFrois*, 151 AD2d 1046). Defendant is directed to file and serve his records and briefs with this Court on or before July 24, 2017. PRESENT: WHALEN, P.J., SMITH, LINDLEY, TROUTMAN, AND SCUDDER, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (905/02) KA 01-01982. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SHONDELL J. PAUL, DEFENDANT-APPELLANT. -- Motion for

reargument granted and upon reargument, the order of this Court entered December 23, 2016 is vacated, and the motion of defendant for a writ of error coram nobis is granted. Memorandum: Defendant contends that he was denied effective assistance of appellate counsel because counsel failed to raise an issue on direct appeal, specifically, whether the *Antommarchi*

waiver proffered by the attorney for defendant was valid. Upon our review of the motion papers, we conclude that the issue may have merit. The order of October 1, 2002 is vacated and this Court will consider the appeal de novo (see *People v LeFrois*, 151 AD2d 1046). Defendant is directed to file and serve his records and briefs with this Court on or before July 24, 2017. PRESENT: WHALEN, P.J., SMITH, LINDLEY, TROUTMAN, AND SCUDDER, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (1060/04) KA 01-02425. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V WALTER BALL, DEFENDANT-APPELLANT. -- Motion to recall and vacate an order of this Court denied. PRESENT: SMITH, J.P., CENTRA, CARNI, LINDLEY, AND DEJOSEPH, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (1573/07) KA 05-00983. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JAMES F. CAHILL, III, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., SMITH, PERADOTTO, LINDLEY, AND SCUDDER, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (899/10) KA 09-00902. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V THOMAS B. SIMCOE, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, DEJOSEPH, AND SCUDDER, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (59/11) KA 07-00754. -- THE PEOPLE OF THE STATE OF NEW YORK,

RESPONDENT, V CAL WILLIAMS, DEFENDANT-APPELLANT. -- Motion for reargument and other relief denied. PRESENT: CENTRA, J.P., PERADOTTO, NEMOYER, CURRAN, AND TROUTMAN, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (1312/14) KA 10-02076. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V HARASHA L. PURYEAR, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., PERADOTTO, CARNI, LINDLEY, AND SCUDDER, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (967/15) KA 12-01595. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JAKIM GRIMES, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, LINDLEY, AND DEJOSEPH, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (420/16) KA 13-02099. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V THEODORE TYLER, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., PERADOTTO, LINDLEY, DEJOSEPH, AND NEMOYER, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (784/16) CA 15-02182. -- WILLIAM SCRUTON, PLAINTIFF-RESPONDENT, V ACRO-FAB, LTD., DEFENDANT-APPELLANT, ET AL., DEFENDANTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, CURRAN, AND TROUTMAN, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (1060/16) CA 16-00502. -- ONE FLINT ST. LLC AND DHD VENTURES NEW YORK, LLC, PLAINTIFFS-RESPONDENTS-APPELLANTS, V EXXON MOBIL CORPORATION, EXXONMOBIL OIL CORPORATION, DEFENDANTS-APPELLANTS-RESPONDENTS, ET AL., DEFENDANTS. -- Motions for leave to appeal to the Court of Appeals denied. PRESENT: CARNI, J.P., DEJOSEPH, NEMOYER, TROUTMAN, AND SCUDDER, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (1078/16) CA 16-00075. -- RAYMOND T. WEBBER AND DUANE WEBBER, PLAINTIFFS-APPELLANTS, V LEE WEBBER AND GERALD T. FILIPIAK, DEFENDANTS-RESPONDENTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., DEJOSEPH, NEMOYER, AND TROUTMAN, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (1119/16) KA 14-00873. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ELHAJJI ELSHABAZZ, DEFENDANT-APPELLANT. -- Motion for re-hearing of the appeal and other relief denied. PRESENT: SMITH, J.P., DEJOSEPH, CURRAN, AND SCUDDER, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (1152/16) CA 16-00458. -- NICHOLAS KILMER, PLAINTIFF-APPELLANT, V DAVID MASTROPIETRO, INDIVIDUALLY AND/OR DOING BUSINESS AS FINGER LAKES TRANSPORT, AND DAVID BAKER, DEFENDANTS-RESPONDENTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: WHALEN, P.J., SMITH, PERADOTTO, NEMOYER, AND SCUDDER, JJ. (Filed Mar. 24,

2017.)

MOTION NO. (1206/16) KA 14-00754. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V HORACE BETTS, III, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: SMITH, J.P., LINDLEY, DEJOSEPH, NEMOYER, AND TROUTMAN, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (1219/16) CA 15-01355. -- IN THE MATTER OF STATE OF NEW YORK, PETITIONER-RESPONDENT, V JOSEPH SCHOLTISEK, RESPONDENT-APPELLANT. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., LINDLEY, DEJOSEPH, NEMOYER, AND TROUTMAN, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (1254/16) KA 14-00505. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V BENNIE SMITH, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, NEMOYER, AND SCUDDER, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (1282/16) CA 16-00413. -- COUNTY OF ERIE, PLAINTIFF-APPELLANT, V FRANCIS B. VOLANTE, DEFENDANT-RESPONDENT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: WHALEN, P.J., SMITH, CARNI, DEJOSEPH, AND CURRAN, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (1286/16) CA 16-00664. -- NAKITA HARRIS, INDIVIDUALLY, AND AS PARENT AND NATURAL GUARDIAN OF MYRA HARRIS, PLAINTIFF-APPELLANT, V CITY OF

BUFFALO, BUFFALO BOARD OF EDUCATION, BUFFALO PUBLIC SCHOOL #53, THE AFTER SCHOOL PROGRAM AND THE DIRECTOR OF THE AFTER SCHOOL PROGRAM (JOINTLY AND SEVERALLY), DEFENDANTS-RESPONDENTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: WHALEN, P.J., SMITH, CARNI, DEJOSEPH, AND CURRAN, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (1306/16) CA 16-00038. -- IN THE MATTER OF THE ESTATE OF SHIRLEY A. KEHOE, DECEASED. JEFFREY KEHOE, PETITIONER-RESPONDENT; ROBERT L. EDICK, JR., BRITTNEY L. EDICK AND AMBER M. EDICK, OBJECTANTS-APPELLANTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: WHALEN, P.J., CENTRA, LINDLEY, DEJOSEPH, AND SCUDDER, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (94/17) KA 15-00332. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V PEDRO ROMERO, DEFENDANT-APPELLANT. -- Motion for reargument is granted and, upon reargument, the memorandum and order entered February 10, 2017 (___ AD3d ___) is amended by adding the words "testimony regarding" between the words "evidence of" and "a purported threatening letter" in the first sentence of the third paragraph of the memorandum; and by deleting the words "the letter" from the second sentence of the third paragraph of the memorandum and substituting the words "that testimony." PRESENT: CENTRA, J.P., LINDLEY, NEMOYER, CURRAN, AND TROUTMAN, JJ. (Filed Mar. 24, 2017.)

MOTION NO. (110/17) KAH 16-00389. -- THE PEOPLE OF THE STATE OF NEW YORK EX
REL. ANTONIO COLE, PETITIONER-APPELLANT, V HAROLD D. GRAHAM,
SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY, RESPONDENT-RESPONDENT. --

Motion for leave to appeal to the Court of Appeals denied. PRESENT:
WHALEN, P.J., SMITH, DEJOSEPH, CURRAN, AND SCUDDER, JJ. (Filed Mar. 24,
2017.)

KA 14-01325. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V EDWIN C.
LOPEZ, DEFENDANT-APPELLANT. -- Judgment unanimously affirmed. Counsel's
motion to be relieved of assignment granted (see *People v Crawford*, 71 AD2d
38). (Appeal from a Judgment of Ontario County Court, Frederick G. Reed,
J. - Criminal Sale of a Controlled Substance, 3rd Degree). PRESENT:
WHALEN, P.J., SMITH, CARNI, LINDLEY, AND NEMOYER, JJ. (Filed Mar. 24,
2017.)