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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 137 SSM 6
The People &c.,
Respondent,
v.
Tyray Gilliam,
Appellant.

No. 138 SSM 7
The People &c.,
Respondent,
v.
Alberto de Luna,
Appellant.

No. 139 SSM 9
The People &c.,
Respondent,
v.
Quintrell Joe,
Appellant.

No. 140 SSM 15
The People &c.,
Respondent,
v.
Darnell Norton,
Appellant.

For Case No. 137 SSM 6:
Submitted by Philip Rothschild, for appellant.
Submitted by James P. Maxwell, for respondent.

For Case No. 138 SSM 7:
Submitted by Lisa A. Packard, for appellant.
Submitted by Nicole A. Coviello, for respondent.

For Case No. 139 SSM 9
Submitted by Christine M. Cook, for appellant.
Submitted by Victoria M. White, for respondent.

For Case No. 140 SSM 15:

Submitted by Kimberly F. Duguay, for appellant.

Submitted by Leslie E. Swift, for respondent.

MEMORANDUM:

In each case, the order of the Appellate Division should be reversed and the matter remitted to that court for further proceedings in accordance with this memorandum.

In these unrelated cases, defendants pleaded guilty to

a particular crime and waived the right to appeal. Each defendant subsequently challenged the validity of the waiver and asserted that the sentence was excessive. The Appellate Division summarily affirmed without indicating whether it relied on the waiver or determined that the sentencing claim lacked merit (86 AD3d 923 [4th Dept 2011], lv granted 17 NY3d 953 [2011]; 86 AD3d 433 [1st Dept 2011], lv granted 17 NY3d 952 [2011]; 87 AD3d 1266 [4th Dept 2011], lv granted 18 NY3d 859 [2011]; 87 AD3d 1310 [4th Dept 2011], lv granted 18 NY3d 861 [2011]). This was impermissible under People v Qoshja (17 NY3d 910, 911 [2011]). Consequently, we reverse and remit each case to the Appellate Division for clarification of the basis of its decision.

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For Case No. 138 SSM 7: On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, First Department, for further proceedings in accordance with the memorandum herein. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

For Each Other Case: On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, Fourth Department, for further proceedings in accordance with the memorandum herein. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided May 8, 2012