

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT - Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
Angela M. Mazzairelli  
Richard T. Andrias  
David B. Saxe, Justices.

-----X  
Doreen Rhodes,

Plaintiff-Appellant,

-against-

M-5425X  
Index No. 14810/05

The City of New York, et al.,

Defendants-Respondents.

-----  
(And a third-party action)  
-----X

An appeal having been taken from the order of the Supreme Court, Bronx County, entered on or about April 27, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" November 1, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

*Susan Rojas*  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT - Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
Angela M. Mazzairelli  
Richard T. Andrias  
David B. Saxe, Justices.

-----X  
North American Airlines, Inc.,  
Plaintiff-Respondent,

-against-

M-5426X  
Index No. 602985/09

Wilmington Trust Company, etc., et al.,  
Defendants,

Leasint S.p.A., as successor by merger  
to defendants San Paolo Leasing S.p.A.  
and Intesa Leasing S.p.A.,  
Defendant-Appellant,

-and-

Unicredit Leasing S.p.A., as successor  
by merger to defendant Locat S.p.A.,  
Defendant-Appellant.

-----X  
Appeals having been taken from the order of the Supreme Court, New York County, entered on or about May 24, 2010 (mot. seq. no. 003),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" October 28, 2010, and due deliberation having been had thereon,

It is ordered that the appeals are withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
Angela M. Mazzarelli  
Richard T. Andrias  
David B. Saxe, Justices.

-----X  
Tourneau, LLC,  
Plaintiff-Appellant,

-against-

M-5705X  
Index No. 601125/09

53rd & Madison Tower Development,  
Defendant-Respondent.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about March 2, 2010,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" November 15, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
Angela M. Mazzairelli  
Richard T. Andrias  
David B. Saxe, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-5744  
Ind. No. 509/08

Leonel Perez,  
Defendant-Respondent.

-----X

An appeal having been taken from a judgment of the Supreme Court, New York County, rendered on or about June 30, 2009,

Now, upon reading and filing the stipulation of the parties hereto, dated October 18, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
Angela M. Mazzairelli  
Richard T. Andrias  
David B. Saxe, Justices.

-----X  
Graham Sheffield, as Administrator of  
the Estate of Carolyn Sheffield,  
deceased, and Graham Sheffield,  
individually,  
Plaintiffs-Respondents,

-against-

M-5609  
Index No. 100239/07

North Shore-Long Island Jewish  
Health System, Inc. and Franklin  
Hospital Medical Center,  
Defendants-Appellants,

-and-

Peter Chang, M.D., Scott Keschner, M.D.,  
Joseph & Desroches, M.D., P.C., Lionel  
Desroches, M.D. and Antonio Joseph, M.D.,  
Defendants.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about November 18, 2009,

Now, upon reading and filing the stipulation of the parties dated October 12, 2010, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the September 2010 Term, is withdrawn in accordance with the aforesaid stipulation.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
Eugene Nardelli  
Rosalyn H. Richter  
Nelson S. Román, Justices.

-----X  
The People of the State of New York,

Respondent,

-against-

M-4799  
Ind. No. 879/07

Ricardo Garcia,

Defendant-Appellant.  
-----X

Assigned counsel having moved for an order dismissing defendant's appeal taken from a judgment of the Supreme Court, New York County, rendered on or about February 20, 2008, without prejudice to reinstatement at such time appellant becomes amenable to the jurisdiction of this Court,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of deeming the appeal withdrawn.

ENTER:

  
CLERK



At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
Eugene Nardelli  
Rosalyn H. Richter  
Nelson S. Román, Justices.

-----X  
In the Matter of

Kennya S.,

A Child Under 18 Years of Age Alleged  
to be Neglected Under Article 10  
of the Family Court Act.

-----  
Center for Family Representation, et al.,  
Petitioners-Respondents,

M-4865  
Docket No. NN975/09

Kensader S.,  
Respondent-Appellant.

-----  
Steven Banks, Esq., The Legal Aid  
Society, Juvenile Rights Division,  
Law Guardian for the Child.

-----X  
Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal from an order of disposition of the Family Court, New York County, entered on or about May 7, 2010, and for assignment of counsel, a free copy of the transcript, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Dora M. Lassinger, Esq., 6 Howland Road, East Rockaway, New York 11518, Telephone No. 516-887-8987, as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the City of New

York from funds available therefor<sup>1</sup> within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk; (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. The Clerk of the Family Court shall transfer the record upon receipt of this order; and (4) appellant is directed to perfect this appeal, in compliance with Rule 600.11 of the Rules of this Court, within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:

  
CLERK

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<sup>1</sup>Service of appellant's brief upon respondent(s) shall include assigned counsel's copy of the transcript.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
Eugene Nardelli  
Rosalyn H. Richter  
Nelson S. Román, Justices.

-----X  
In the Matter of

Sharon Crystal F.,

Pursuant to §384-b of the Social Services Law of the State of New York and/or Article 6 of the Family Court Act.

-----  
Catholic Guardian Society & Home Bureau,  
et al.,

Petitioners-Respondents,

M-4867  
Docket No. B-136/08

Nicole Valerie D., also known as  
Nicole D., also known as Nicole  
D.-F., also known as Nicole F.,  
Respondent-Appellant.

-----  
Steven Banks, Esq., The Legal Aid  
Society, Juvenile Rights Division,  
Law Guardian for the Child.

-----X  
Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal from an order of the Family Court, New York County, entered on or about June 21, 2010, and for assignment of counsel, a free copy of the transcript, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Neal D. Futerfas, Esq., 50 Main Street, Suite 1000, White Plains, New York 10606, Telephone No. 914-682-2171, as counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the City

of New York from funds available therefor<sup>1</sup> within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk; (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. The Clerk of the Family Court shall transfer the record upon receipt of this order; and (4) appellant is directed to perfect this appeal, in compliance with Rule 600.11 of the Rules of this Court, within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:

  
CLERK

---

<sup>1</sup>Service of appellant's brief upon respondent(s) shall include assigned counsel's copy of the transcript.

At a Term of the Appellate Division of the Supreme Court held in and for the first Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzairelli  
Richard T. Andrias  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-4972  
Ind. No. 6857/98

Arild Gonzalez,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about August 6, 2010, **denying resentence**, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of permitting the appeal to be heard upon the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files copies of such brief, together with the original record, with this Court pursuant to Rule 600.11 of the Rules of this Court.

Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11<sup>th</sup> Floor, New York, New York 10006, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the first Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzairelli  
Richard T. Andrias  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-5050  
Ind. No. 6502/99

Roderick Turner,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, Bronx County, entered on or about October 1, 2010, **denying resentence**, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of permitting the appeal to be heard upon the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files copies of such brief, together with the original record, with this Court pursuant to Rule 600.11 of the Rules of this Court.

Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzarelli  
Eugene Nardelli  
Diane T. Renwick  
Leland G. DeGrasse, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-5218  
Ind. No. 171/10

Mike Quann Plummer,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about August 30, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of any proceedings pursuant to CPL §210.20, Arts. 710 and 730, of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT - Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
John W. Sweeny, Jr.  
Rosalyn H. Richter  
Sallie Manzanet-Daniels, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-4700  
Ind. No. 3455/09

Aderic Rhobe,  
Defendant-Appellant.

-----X

Defendant having moved for an enlargement of time in which to file a notice of appeal from the judgment of the Supreme Court, Bronx County, rendered on or about July 30, 2010, for leave to prosecute the appeal as a poor person upon the original record and upon a reproduced appellant's brief, and for assignment of counsel,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of deeming the moving papers a timely filed notice of appeal, and permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 10 reproduced copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of any proceedings pursuant to CPL §210.20, Arts. 710 and 730, and of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Room 1601, New York, NY 10007, Telephone No. (212)402-4100, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzaelli  
Richard T. Andrias  
Karla Moskowitz  
Diane T. Renwick, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-720A  
Ind. No. 1040/07

Jason Wine,  
Defendant-Appellant.

-----X

Defendant having moved for an extension of time to file a notice of appeal from the judgment of the Supreme Court, New York County, rendered on or about December 12, 2008, and for leave to prosecute the appeal as a poor person, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of deeming the notice of appeal as timely filed and permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of any proceedings pursuant to CPL §210.20, Arts. 710 and 730, and of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Room 1601, New York, New York 10007, Telephone No. 212-402-4100, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record. The order of this Court entered on March 17, 2009 (M-720) is hereby recalled and vacated.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT - Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
John W. Sweeny, Jr.  
Rosalyn H. Richter  
Sallie Manzanet-Daniels, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-5115  
Ind. No. 5131/07

Antonio Badia,  
Defendant-Appellant.

-----X

An order of this Court having been entered on January 15, 2009 (M-5898) granting defendant leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about November 13, 2008, and assigning Steven Banks, Esq., as counsel to prosecute the appeal; and a motion having been made to relieve such counsel, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of striking the designation of assigned counsel Steven Banks, Esq., as counsel to prosecute defendant's appeal, and substituting, pursuant to Section 722 of the County Law, Robert S. Dean, Esq., Center For Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. (212)577-2523, as such counsel. The poor person relief previously granted is continued, and appellant's time in which to perfect the appeal is enlarged until 120 days from the date of this order or the filing of the record, whichever is later.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzairelli  
Richard T. Andrias  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----X

The People of the State of New York,

Respondent,

-against-

M-4982

Ind. No. 1793N/09

Roland Barnes,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about May 4, 2010, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief; and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth facts sufficient to establish that defendant has no funds or assets with which to prosecute the appeal, including the amount and sources of his income and listing his property with its value.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzairelli  
Richard T. Andrias  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----X

The People of the State of New York,

Respondent,

-against-

M-5007  
Ind. No. 2748/09

Jahyra Rosa,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about June 15, 2010, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth the amount and sources of funds to pay the fee of retained trial counsel, and to post the \$7,500 bail in the Supreme Court, the disposition thereof, and an explanation as to why similar funds are not available to prosecute the appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzairelli  
Eugene Nardelli  
Diane T. Renwick  
Leland G. DeGrasse, Justices.

-----X

The People of the State of New York,  
Respondent,

-against-

M-5214  
Ind. No. 5264/08

Antonio Miguel, also known as Anthony Miguel,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about September 24, 2010, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth the amount and sources of funds to post the \$50,000 bail in the Supreme Court, the disposition thereof, and an explanation as to why similar funds are not available to prosecute the appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzaelli  
Eugene Nardelli  
Diane T. Renwick  
Leland G. DeGrasse, Justices.

-----X

The People of the State of New York,  
Respondent,

-against-

M-5215  
Ind. No. 4030/02

Mark Moore,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about September 24, 2010, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth the amount and sources of funds to post the \$10,000 bail in the Supreme Court, the disposition thereof, and an explanation as to why similar funds are not available to prosecute the appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzarelli  
Richard T. Andrias  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----X  
Andrew Okopal,

Petitioner-Appellant,

For a Judgment Pursuant to Article 78  
of the CPLR,

-against-

M-5065  
Index No. 401431/10

Vincent Speights, et al.,

Respondents-Respondents.

-----X

Petitioner-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about September 10, 2010, and for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for other relief,

Now, upon reading and filing the papers with respect to said motion, and due deliberation having been had thereon,

It is ordered that said motion is denied.

ENTER:

*Susan Rojas*  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzarelli  
Eugene Nardelli  
Diane T. Renwick  
Leland G. DeGrasse, Justices.

-----x  
In the Matter of the Application of  
William Claudio,  
Petitioner-Appellant,

For a Judgment, etc.,

-against-

M-5432  
Index No. 109385/09

Raymond Kelly, etc., et al.,  
Respondents-Respondents.  
-----x

Petitioner-appellant having moved for an enlargement of time in which to perfect the appeal from the judgment of the Supreme Court, New York County entered on or about December 14, 2009,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the May 2011 Term.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
Eugene Nardelli  
Rosalyn H. Richter  
Nelson S. Román, Justices.

-----X

Benjamin Wey,

Plaintiff-Appellant,

-against-

M-5080

Index No. 108299/09

The Global Consulting Group,  
et al.,

Defendants-Respondents.

-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about January 15, 2010,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the September 2011 Term.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,  
David B. Saxe  
James M. Catterson  
Rolando T. Acosta  
Sallie Manzanet-Daniels, Justices.

-----x  
Naomi Ikeda,  
Plaintiff-Respondent,

-against-

Azad Hussain, et al.,  
Defendants-Appellants,

M-5166  
Index No. 106470/08

-and-

Christine Brooks, et al.,  
Defendants-Respondents.

-----x  
Defendants-appellants having moved for a stay of trial pending hearing and determination of the appeal from the order of the Supreme Court, New York County entered on or about January 26, 2010,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
David Friedman  
James M. McGuire  
Leland G. DeGrasse  
Sallie Manzanet-Daniels, Justices.

-----X  
Armando Gonzalez, as auxiliary executor  
for the estate of Antonio Laurentino  
Tubel, et al.,  
Plaintiffs-Appellants,

M-4901  
Index No. 605012/98

-against-

Societe Generale,  
Defendant-Respondent.

-----X

Plaintiffs-appellants having moved for reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on August 31, 2010 (Appeal No. 1722),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT - Hon. Luis A. Gonzalez, Presiding Justice,  
Peter Tom  
John W. Sweeny, Jr.  
Rolando T. Acosta, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-2809  
Ind. No. 3674/06

Jose Acosta,  
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on April 30, 2009 (Appeal No. 446/446A), unanimously affirming a judgment of the Supreme Court, New York County (Rene K. Uviller, J.), rendered on November 27, 2007, and an order of the said Court and Justice entered on or about May 14, 2008,

And defendant-appellant having moved, in the nature of a writ of error coram nobis, for a review of his claim of ineffective assistance of appellate counsel, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that said application is denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,  
Angela M. Mazzairelli  
Richard T. Andrias  
Eugene Nardelli  
Rosalyn H. Richter, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against- M-5094  
Docket No. 26104C/09

Ian Ellison,  
Defendant-Appellant.  
-----X

An appeal having been taken from the judgment of the Supreme Court, Bronx County, rendered on or about July 7, 2010,

And defendant having moved for an order pursuant to CPL §§ 460.50 and 530.50 continuing defendant's release on his own recognizance, pursuant to the Order of a Justice of this Court, dated July 8, 2010, pending hearing and determination of the aforesaid appeal, and enlarging the time in which to perfect said appeal,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is granted to the extent of continuing bail on the same conditions set forth in the order of a Justice of this Court, dated July 8, 2010, pending hearing and determination of the appeal. The time to perfect the appeal is enlarged to the May 2011 Term.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Karla Moskowitz  
Leland G. Degrasse  
Sheila Abdus-Salaam, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-4974  
Ind. No. 4853/00

Raliek Moore,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of **resentence** of the Supreme Court, New York County, rendered on or about September 15, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of **resentence**. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
David Friedman  
Eugene Nardelli  
James M. Catterson, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-5023  
Ind. No. 4290/08

Sharon Gilbert,  
Defendant-Appellant.

-----X

Defendant having renewed her motion for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about February 11, 2010, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of any proceedings pursuant to CPL §210.20, Arts. 710 and 730, and of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Room 1601, New York, New York 10007, Telephone No. 212-402-4100, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
David Friedman  
Eugene Nardelli  
James M. Catterson, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-5539  
Ind. No. 4180/08

Antwan O'Conner, also known as  
Antwan O'Connor,  
Defendant-Appellant.

-----X

Defendant having renewed his motion for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about December 4, 2009, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files copies of such brief, together with the original record, pursuant to Rule 600.11 of the Rules of this Court.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) two transcripts of the stenographic minutes of any proceedings pursuant to CPL §210.20, Arts. 710 and 730, of the plea or trial and sentence. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
John W. Sweeny, Jr.  
Leland G. DeGrasse  
Nelson S. Román, Justices.

-----X  
In the Matter of the Application of  
Marcus Copeland,  
Petitioner-Appellant,

For a Judgment Pursuant to Article 78  
of the CPLR,

-against-

M-5176  
Index No. 401957/09

New York City Housing Authority,  
Respondent-Respondent.

-----X

Petitioner-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about July 30, 2010 (mot. seq. no. 001), and for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for a stay of eviction pending hearing and determination of the aforesaid appeal,

Now, upon reading and filing the papers with respect to said motion, and due deliberation having been had thereon,

It is ordered that said motion is granted to the extent of permitting the appeal to be heard on the original record and upon a reproduced appellant's brief, on condition that appellant serve one copy of such brief upon the attorney for respondent and file the requisite copies of such brief pursuant to 22 NYCRR §600.11(b), together with the original record, with this Court. Appellant is permitted to dispense with payment of the required fee for the subpoena and filing of the record. The Clerk of Supreme Court, New York County, is directed to have transcribed the minutes of the proceedings held therein, if any, for inclusion in the record on appeal, with a copy to appellant's counsel, the cost thereof to be charged against the City of New York from funds available therefor and any other fees in connection therewith. The motion is otherwise denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
Eugene Nardelli  
Rolando T. Acosta  
Leland G. Degrasse, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-5047  
Ind. No. 1600/02

Quantrell Jones,  
Defendant-Appellant.

-----X

An order of this Court having been entered on September 23, 2010 (M-3293) assigning Richard M. Greenberg, Esq., as counsel to prosecute defendant's appeal from the orders of the Supreme Court, New York County, entered on or about March 19, 2008 and May 19, 2010, respectively, **denying resentence**; and a motion having been made to relieve such counsel, and for other relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of striking the designation of assigned counsel Richard M. Greenberg, Esq., as counsel to prosecute defendant's appeal, and substituting, pursuant to Section 722 of the County Law, Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. 212-577-2523, as such counsel. The poor person relief previously granted is continued, and appellant's time in which to perfect the appeal is enlarged until 120 days from the date of this order or the filing of the record, whichever is later.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
Eugene Nardelli  
Rolando T. Acosta  
Leland G. DeGrasse, Justices.

-----x  
In the Matter of

Megan Victoria C-S.,  
Aaliayah Gloria C-S.,  
Ciara Mari S., and  
Alicia Michelle C-S.,

Dependent Children Under 18 Years of Age Pursuant to § 384-b of the Social Services Law of the State of New York.

-----  
Commissioner of Social Services, et al.,  
Petitioners-Respondents,

M-4939  
Docket Nos.  
B20749-51/06

Jorge Gustavo C.,  
Respondent,

Maria Esther S.,  
Respondent-Appellant.

-----  
Steven N. Feinman, Esq.,  
Law Guardian for the Children.

-----x

An appeal having been taken to this Court from orders of the Family Court, Bronx County, entered on or about April 30, 2009,

And Ellen Winter-Mendelson, Esq., having moved for an order to be relieved as law guardian and to substitute other counsel to respond to the appeal,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of relieving Ellen Winter-Mendelson, Esq., as law guardian and substituting, pursuant to Article 18b of the County Law and § 1120 of the Family Court Act, Steven N. Feinman, Esq., 19 Court Plaza, Suite 201, White Plains, New York 10601, Telephone No. 914-949-8214, as law guardian for purposes of responding to the appeal.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
James M. Catterson  
Karla Moskowitz  
Rolando T. Acosta, Justices.

-----X

The People of the State of New York,  
  
Respondent,

-against-

M-4920  
Ind. No. 2398/03

Roderick Gunn, also known as  
Tyrone J. Coleman,

Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, New York County, rendered on or about April 6, 2010, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied, with leave to renew upon defendant's submission of a detailed notarized affidavit, pursuant to CPLR 1101(a), setting forth the amount and sources of funds to post the \$15,000 bail in the Supreme Court, the disposition thereof, and an explanation as to why similar funds are not available to prosecute this appeal. (The application shall include an affidavit of the source[s] of all funds utilized by defendant.)

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present: Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Karla Moskowitz  
Leland G. DeGrasse  
Sheila Abdus-Salaam, Justices.

-----X  
In the Matter of a Proceeding for  
Custody and/or Visitation Under  
Article 6 of the Family Court Act.

-----  
Miguel M.,  
Petitioner-Respondent,  
-against-  
M-5102  
Docket Nos. V18348/09  
V18349/09  
V18350/09

Gidget J.,  
Respondent-Appellant.  
-----  
Steven Banks, Esq.,  
Law Guardian for the Children.  
-----X

Respondent-appellant mother having moved for leave to prosecute, as a poor person, the appeal from an order of custody on default of the Family Court, Bronx County, entered on default on or about October 22, 2009, and for assignment of counsel, a free copy of the transcript, and related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is denied and, sua sponte, the appeal is dismissed as taken from a non-appealable order.

ENTER:  
  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present: Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
Eugene Nardelli  
Rolando T. Acosta  
Leland G. DeGrasse, Justices.

-----X  
James Infantino,

Plaintiff-Respondent,

-against-

M-5120  
Index No. 309090/07

Miriam Humbach,

Defendant-Appellant.  
-----X

Defendant-appellant having moved for leave to prosecute, as a poor person, the appeal from orders of the Supreme Court, New York County, entered on or about July 30, 2010, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
John W. Sweeny, Jr.  
Leland G. DeGrasse  
Nelson S. Román, Justices.

-----X  
Atria Builders, L.L.C., et al.,  
Plaintiffs-Appellants,

-against-

Petra Mortgage Capital Corp., LLC,  
etc.,  
Defendant-Respondent,

M-5514  
Index No. 602785/08

-and-

Morgan 32 Holding, L.L.C., et al.,  
Defendants.

-----X  
Plaintiffs-appellants having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County entered on or about December 28, 2009 (mot. seq. no. 002),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the May 2011 Term.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
Eugene Nardelli  
Rolando T. Acosta  
Leland G. DeGrasse, Justices.

-----x  
In the Matter of the Application of  
Peter Koster,  
Petitioner-Appellant,

For a Judgment, etc.,

M-5177  
Index No. 105002/09

-against-

Raymond Kelly, etc., et al.,  
Respondents-Respondents.

-----x  
Petitioner-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about December 15, 2009,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the May 2011 Term.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,  
David B. Saxe  
Karla Moskowitz  
Leland G. Degrasse  
Sheila Abdus-Salaam, Justices.

-----X  
Devonshire Surgical Facility and  
Carnegie Hill Orthopedic Services, P.C.,  
a/a/o Denio Rivas,  
Plaintiffs-Appellants,

-against-

M-5030  
Index No. 570498/09

American Transit Insurance Company,  
Defendant-Respondent.  
-----X

Defendant-respondent having moved for leave to appeal to this Court from the decision and order of the Appellate Term, entered in the office of the Clerk of the Supreme Court, New York County on or about May 19, 2010,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT: Hon. Peter Tom, Justice Presiding,  
Richard T. Andrias  
John W. Sweeny, Jr.  
Leland G. DeGrasse  
Nelson S. Román, Justices.

-----X  
GS Plasticos Limitada,  
Plaintiff-Respondent,

-against-

M-5590  
Index No. 650242/09

Bureau Veritas,  
Defendant-Appellant,

Bureau Veritas Consumer Products  
Services, Inc.,  
Defendant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about April 16, 2010 (mot. seq. no. 003), and said appeal having been perfected,

And defendant-appellant having moved to strike plaintiff's second supplemental record on appeal and portions of plaintiff-respondent's brief which refer to the second supplemental record,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is denied, without prejudice to the appeal bench determining the sanction to be imposed, if any, for plaintiff's submission of a second supplemental record. The Clerk of the Court is directed to maintain defendant's perfected appeal on the calendar for hearing in the January 2011 Term.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the first Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,  
David B. Saxe  
James M. McGuire  
Helen E. Freedman  
Sheila Abdus-Salaam, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-5150  
Ind. No. 1468/02

Carlton Spivey,  
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about August 30, 2010, **denying resentence**, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of permitting the appeal to be heard upon the original record and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files copies of such brief, together with the original record, with this Court pursuant to Rule 600.11 of the Rules of this Court.

Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,  
David Friedman  
James M. Catterson  
Leland G. Degrasse  
Sallie Manzanet-Daniels, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-4825  
Ind. No. 3659/06

James P. Wolfgeorge,  
Defendant-Appellant.

-----X

An order of this Court having been entered on July 2, 2009 (M-2598) granting defendant leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about May 15, 2009, and assigning Robert S. Dean, Esq., as counsel to prosecute the appeal; and a motion having been made to relieve such counsel, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of striking the designation of assigned counsel Robert S. Dean, Esq., as counsel to prosecute defendant's appeal, and substituting, pursuant to Section 722 of the County Law, Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Room 1601, New York, New York 10007, Telephone No. (212)402-4100, as such counsel. The poor person relief previously granted is continued, and appellant's time in which to perfect the appeal is enlarged until 120 days from the date of this order or the filing of the record, whichever is later.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,  
David Friedman  
James M. McGuire  
Rosalyn H. Richter, Justices.

-----X  
The People of the State of New York,  
Appellant,

-against-

M-5411  
Ind. No. 1200/06

Cesar Rios,  
Defendant-Respondent.

-----X  
The People having taken an appeal from the order of the Supreme Court, Bronx County, entered on or about February 23, 2010, and said appeal having been perfected,

And Goldstein & Weinstein, retained trial counsel for defendant, having moved to be relieved as counsel on the appeal, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is granted and, sua sponte, the appeal is adjourned to the April 2011 Term.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,  
Eugene Nardelli  
Karla Moskowitz  
Leland G. DeGrasse  
Nelson S. Román, Justices.

-----X  
In the Matter of

Andy Z.,

A Child Under 18 Years of Age Alleged  
to be Abused and/or Neglected Under  
Article 10 of the Family Court Act.

M-4676  
Docket No. NN6637/08

-----  
Commissioner of Social Services of the  
City of New York,  
Petitioner-Respondent,

Hong Lai Z.,  
Respondent-Appellant.

-----  
Steven Banks, Esq.,  
Law Guardian for the Child.

-----X  
Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of the Family Court, New York County, entered on or about June 7, 2010, and for assignment of counsel, a free copy of the transcript, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Howard M. Simms, Esq., 295 Greenwich St., #222, New York, NY 10007, Telephone No. (212) 655-5802, as

December 9, 2010

counsel for purposes of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the City of New York from funds available therefor<sup>1</sup> within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk; (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. The Clerk of the Family Court shall transfer the record upon receipt of this order; and (4) appellant is directed to perfect this appeal, in compliance with Rule 600.11 of the Rules of this Court, within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:



CLERK

---

<sup>1</sup>Service of appellant's brief upon respondent(s) shall include assigned counsel's copy of the transcript.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,  
Eugene Nardelli  
Karla Moskowitz  
Leland G. DeGrasse  
Nelson S. Román, Justices.

-----X  
In the Matter of

Alexander Achilles S.,

A Dependent Child Under 18 Years of Age Pursuant to §384-b of the Social Services Law of the State of New York.

M-4719

Docket No. B22852/07

- - - - -  
The Children's Aid Society, et al.,  
Petitioners-Respondents,

Katherine Shanta S.,  
Respondent-Appellant.

- - - - -  
Steven Banks, Esq., The Legal Aid Society, Juvenile Rights Division,  
Law Guardian for the Child.

-----X

Respondent-appellant mother having moved for leave to prosecute, as a poor person, the appeal from the order of the Family Court, Bronx County, entered on or about July 26, 2010, and for assignment of counsel, a free copy of the transcript, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Joseph V. Moliterno, Esq., 670 White Plains Road, Suite 207, Scarsdale, New York 10583, Telephone No. (914) 722-6922, as counsel for purposes

of prosecuting the appeal; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record on appeal, the cost thereof to be charged against the City of New York from funds available therefor<sup>1</sup> within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk; (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. The Clerk of the Family Court shall transfer the record upon receipt of this order; and (4) appellant is directed to perfect this appeal, in compliance with Rule 600.11 of the Rules of this Court, within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:

  
CLERK

---

<sup>1</sup>Service of appellant's brief upon respondent(s) shall include assigned counsel's copy of the transcript.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Richard T. Andrias, Justice Presiding,  
Eugene Nardelli  
Karla Moskowitz  
Leland G. DeGrasse  
Nelson S. Román, Justices.

-----X

In the Matter of

Messiah T., and  
Royaltie C.,

Children Under the Age of 18 Alleged  
to be Neglected Under Article 10 of  
the Family Court Act.

-----  
Commissioner of Social Services,  
Petitioners-Respondents,

M-4720  
Docket Nos. NN-00874/09  
NN-00875/09

Karen E. S.,  
Respondent-Appellant.

-----  
Steven Banks, Esq., The Legal Aid  
Society, Juvenile Rights Division,  
Law Guardian for the Children.

-----X

Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal from the order of Fact-Finding of the Family Court, New York County, entered on or about May 20, 2010, and from the order of Disposition and Permanency Hearing of said Court entered on or about August 10, 2010, respectively, and for assignment of counsel, a free copy of the transcript, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is granted to the extent of  
(1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Michael S. Bromberg, Esq., 44 Hampton Street, Sag Harbor, New York 11963, Telephone No. 631-725-0641, as counsel for purposes of prosecuting the appeal;  
(2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the

record on appeal, the cost thereof to be charged against the City of New York from funds available therefor<sup>1</sup> within 30 days (FCA 1121[7]) of service of a copy of this order upon the Clerk; (3) permitting appellant to dispense with any fee for the transfer of the record from the Family Court to this Court. The Clerk of the Family Court shall transfer the record upon receipt of this order; and (4) appellant is directed to perfect this appeal, in compliance with Rule 600.11 of the Rules of this Court, within 60 days of receipt of the transcripts. Assigned counsel is directed to immediately serve a copy of this order upon the Clerk of the Family Court.

ENTER:

  
CLERK

---

<sup>1</sup>Service of appellant's brief upon respondent(s) shall include assigned counsel's copy of the transcript.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,  
Eugene Nardelli  
Karla Moskowitz  
Leland G. DeGrasse  
Nelson S. Román, Justices.

-----X  
In the Matter of

Julio O.,  
Mariana O.,  
Roberto O. and  
Selena O.,

M-4711  
Docket No. NN20144-47/07

Children Under 18 Years of Age Alleged to be Abused and/or Neglected Pursuant to Article 10 of the Family Court Act.

-----  
Administration for Children's Services,  
Petitioner-Respondent,

Lakeysha H.,  
Respondent-Appellant.

-----  
Steven Banks, Esq.,  
Law Guardian for the Children.

-----X  
Respondent-appellant mother having moved for leave to prosecute, as a poor person, the appeal from the orders of the Family Court, Bronx County, entered on or about March 18, 2010 and on or about July 15, 2010, respectively, and for assignment of counsel, a free copy of the transcript, and related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is denied, with leave to renew upon submission of certification that complies with FCA 1118.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT - Hon. Richard T. Andrias, Justice Presiding,  
James M. Catterson  
Karla Moskowitz  
Sallie Manzanet-Daniels  
Nelson S. Román, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-5175  
Ind. No. 829/08

Nathan Sams,  
Defendant-Appellant.

-----X

An order of this Court having been entered on June 8, 2010 (M-2338), inter alia, granting defendant leave to file a pro se supplemental brief in connection with the appeal from a judgment of the Supreme Court, New York County, rendered on or about March 31, 2009,

And defendant having moved for an extension of time in which to file the pro se supplemental brief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of directing defendant to serve and file 8 copies of his pro se supplemental brief on or before February 22, 2011 for the May 2011 Term, to which Term the appeal is adjourned. The appeal will not be heard unless and until all material furnished to appellant has been returned.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT - Hon. David B. Saxe, Justice Presiding,  
Rolando T. Acosta  
Helen E. Freedman  
Rosalyn H. Richter  
Sheila Abdus-Salaam, Justices.

-----X  
The People of the State of New York,  
Respondent,

-against-

M-4824  
Ind. No. 348/08

Donte Harris,  
Defendant-Appellant.

-----X

An appeal having been taken from the judgement of the Supreme Court, New York County, rendered on or about April 27, 2009,

And defendant-appellant having moved for an order enlarging the record on appeal to include, and granting the unsealing of the Darden hearing minutes and related paperwork herein, including the sealed minutes of the defense offer of proof, and other relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted only to the extent of directing the People to provide this Court, under seal, for *in camera* review, the minutes of pre-trial Darden hearing held in connection with the above captioned matter. The motion is otherwise denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT: Hon. David B. Saxe, Justice Presiding,  
Rolando T. Acosta  
Helen E. Freedman  
Rosalyn H. Richter  
Sheila Abdus-Salaam, Justices.

-----X  
In the Matter of the Application of  
Desiree English,  
Petitioner-Appellant,

For a Judgment Pursuant to Article 78  
of the CPLR,

-against-

M-4812  
Index No. 403053/09

New York City Housing Authority,  
Respondent-Respondent.

-----X

Petitioner-appellant having moved for a stay of eviction in the above-entitled action pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about June 16, 2010,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. David Friedman, Justice Presiding,  
James M. Catterson  
Karla Moskowitz  
Dianne T. Renwick  
Sheila Abdus-Salaam, Justices.

-----X  
In the Matter of the Application of

Kalihil El Bey,  
Petitioner,

For an Order Pursuant to Article 78  
of the Civil Practice Law and Rules,

M-5236  
Index No. 401066/09

-against-

New York City Housing Authority,  
Respondent.

-----X

An order of this Court having been entered June 10, 2010 (M-2202), denying petitioner leave to prosecute, as a poor person, the appeal from the order of the Supreme Court, New York County, entered on or about January 14, 2010, and dismissing said appeal as untimely taken,

And an order of this Court having been entered on August 24, 2010 (M-3407), denying petitioner's request to restore the appeal to the calendar,

And petitioner having moved for leave to appeal to the Court of Appeals from the order entered August 24, 2010 (M-3407),

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is

Ordered that the motion is denied.

ENTER:

  
CLERK

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

PRESENT : Hon. David Friedman, Justice Presiding,  
James M. Catterson  
Karla Moskowitz  
Dianne T. Renwick  
Sheila Abdus-Salaam, Justices.

-----X  
Gentry T. Beach and Robert A. Vollero,  
Plaintiffs-Appellants,

-against-

M-3518A  
Index No. 603611/08

Touradji Capital Management, LP and  
Paul Touradji,  
Defendants-Respondents.

(And other actions)

-----X

Defendants-respondents having moved for consolidation of the appeals taken from the orders of the Supreme Court, New York County, entered on or about September 21, 2009 and May 20, 2010, respectively,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from appellant's attorney dated November 9, 2010, and due deliberation having been had thereon,

It is ordered that the motion is deemed withdrawn as is the appeal from the order of the Supreme Court, entered on or about May 20, 2010. The Clerk is directed to calendar the appeal from the order of the Supreme Court, entered on or about September 21, 2009 for hearing in the February 2011 Term, to which Term the perfected appeal is adjourned.

The order of this Court entered September 14, 2010 (M-3518) is hereby recalled and vacated.

ENTER:

  
CLERK

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: FIRST JUDICIAL DEPARTMENT

BEFORE: Hon. Rosalyn H. Richter  
Justice of the Appellate Division

-----X  
The People of the State of New York,  
Respondent,

-against-

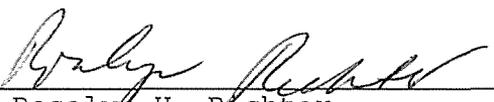
Wayne Hunter,  
Defendant-Appellant.  
-----X

M-5437  
Ind. Nos. 5251/2007,  
6131/2007  
CERTIFICATE  
GRANTING LEAVE

I, Rosalyn H. Richter, a Justice of the Appellate Division, First Judicial Department, do hereby certify that in the proceedings herein questions of law or fact are involved which ought to be reviewed by the Appellate Division, First Judicial Department, and, pursuant to Section 460.15 of the Criminal Procedure Law, permission is hereby granted to the above-named defendant to appeal to the Appellate Division, First Judicial Department, from the order of the Supreme Court, New York County, entered on or about September 17, 2010.<sup>1</sup>

Dated: November 30, 2010  
New York, New York

2 ENTERED DEC - 9 2010

  
\_\_\_\_\_  
Hon. Rosalyn H. Richter  
Associate Justice

NOTICE: Within 15 days from the date hereon, an appeal must be taken, and this certificate must be filed with the notice of appeal. An appeal is taken by filing, in the Clerk's office of the criminal court in which the order sought to be appealed was rendered, a written notice in duplicate that appellant appeals to the Appellate Division, First Judicial Department (Section 460.10, subd. 4, CPL), together with proof that another copy of the notice of appeal has been served upon opposing counsel. The appeal (or consolidated appeals; see footnote) must be argued within 120 days from the date of the notice of appeal, unless the time to perfect the appeal(s) is enlarged by the court or a justice thereof.

---

<sup>1</sup>In the event defendant has an existing (direct) appeal from a judgment, such appeal shall be consolidated with the appeal from the aforesaid order; and any poor person relief granted with respect to the appeal from the judgment shall be extended to cover the appeals so consolidated.

SUPREME COURT, APPELLATE DIVISION  
FIRST JUDICIAL DEPARTMENT

DEC 9 2010

David B. Saxe, Justice Presiding,  
David Friedman  
John W. Sweeny, Jr.  
Eugene Nardelli  
James M. McGuire, Justices.

-----x

In the Matter of Catherine M. Conrad,  
a suspended attorney:

Departmental Disciplinary Committee M-3482  
for the First Judicial Department, M-4089  
Petitioner,

Catherine M. Conrad,  
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental  
Disciplinary Committee for the First Judicial Department.  
Respondent, Catherine M. Conrad, was admitted to the Bar of  
the State of New York at a Term of the Appellate Division of  
the Supreme Court for the Second Judicial Department on  
January 26, 2000.

Alan W. Friedberg, Chief Counsel, Departmental  
Disciplinary Committee, New York  
(Kevin E.F. O'Sullivan, of counsel), for petitioner.

Victor M. Serby, for respondent.

M-3484/M-4089 - August 23, 2010

In the Matter of Catherine M. Conrad, a Suspended Attorney

Per Curiam

Respondent Catherine M. Conrad was admitted to the practice of law in the State of New York by the Second Judicial Department on January 26, 2000, and, at all times relevant to this proceeding, has maintained an office for the practice of law within the First Judicial Department.

In a previous order dated December 18, 2007, this Court suspended respondent from the practice of law for failure to respond to requests made by the Departmental Disciplinary Committee pursuant to its investigation of two complaints made against her (22 NYCRR 603.4[e][1][i]). After receiving a response by respondent six months later seeking an opportunity to respond to the complaints, the Committee conducted an investigation. Based upon respondent's admitted problem with alcohol dependency, which she acknowledged was connected to her failure to cooperate and the underlying conduct, the Committee obtained a psychiatric evaluation of respondent in November 2009, and a subsequent re-evaluation in May 2010. The psychiatrist determined that respondent's prognosis is good, but did not go as far as to assert that she is now fit to re-commence the practice of law.

The Departmental Disciplinary Committee now moves for an

order suspending respondent from the practice of law on the ground that she suffers from a "disability by reason of physical or mental infirmity or illness" (22 NYCRR 603.16[c][1]). In her cross motion respondent seeks to convert the current suspension to a medical suspension nunc pro tunc, but further seeks an order vacating the suspension and reinstating her to the practice of law, due to her year-long sobriety.

The Committee's motion, and the first branch of respondent's cross motion, are granted to the extent that the prior finding of non-cooperation is vacated and an order of suspension based upon the attorney's medical disability is granted nunc pro tunc (see *Matter of Kaplan*, 65 AD3d 287 [2009]; *Matter of Fusco*, 18 AD3d 81 [2005]).

However, that branch of respondent's cross motion seeking immediate reinstatement is denied at this time. The cross motion itself concedes the existence of the alcohol dependence rendering her unfit to practice law; additionally, she acknowledged during her deposition that her failure to cooperate and her underlying conduct was related to alcohol dependency. To support her cross motion, respondent implies that the examining psychiatrist failed to satisfy an obligation to establish that she continues to be unfit to resume her practice. However, to be entitled to reinstatement, since the initial infirmity has been conceded, it is respondent who must prove her fitness to be reinstated (see 22

NYCRR 603.16[f)), and that burden is not satisfied here by her own self-assessment (see *Matter of Stewart*, 47 AD3d 43 [2007]). The branch of respondent's cross motion seeking reinstatement to the practice of law therefore must be denied at this time, without prejudice to a further application, supported by an evaluation by a mental health provider attesting to her current fitness to re-commence the practice of law (see *Matter of Supino*, 23 AD3d 11, 14 [2005]).

Accordingly, the Committee's motion and respondent's cross motion should be granted to the extent that the prior order's finding of non-cooperation is vacated, and respondent is suspended from the practice of law for an indefinite period until further order of this Court, nunc pro tunc to December 18, 2007, and the branch of respondent's cross motion seeking reinstatement to the practice of law should be denied without prejudice to a further motion for the same relief, supported by an expert's evaluation attesting to her present fitness to practice law.

All concur.

Order filed.

DEC 9 2010

SUPREME COURT, APPELLATE DIVISION  
FIRST JUDICIAL DEPARTMENT

Richard T. Andrias, Justice Presiding,  
James M. Catterson  
Diane T. Renwick  
Leland G. DeGrasse  
Sheila Abdus-Salaam, Justices.

-----x

In the Matter of Albert Rudgayzer,  
an attorney and counselor-at-law:

Departmental Disciplinary Committee M-2486  
for the First Judicial Department, M-2125  
Petitioner,

Albert Rudgayzer,  
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental  
Disciplinary Committee for the First Judicial Department.  
Respondent, Albert Rudgayzer, was admitted to the Bar of  
the State of New York at a Term of the Appellate Division  
of the Supreme Court for the Second Judicial Department on  
April 30, 1997.

Alan W. Friedberg, Chief Counsel, Departmental  
Disciplinary Committee, New York  
(Orlando Reyes, of counsel), for petitioner.

Law Office of Michael S. Ross (Pery D. Krinsky, of course),  
for respondent.

M-2486/M-3125 - June 23, 2010

IN THE MATTER OF ALBERT RUDGAYZER, AN ATTORNEY

PER CURIAM

Respondent Albert Rudgayzer was admitted to the practice of law in the State of New York by the Second Judicial Department on April 30, 1997. At all times relevant to this proceeding he has maintained an office for the practice of law in the First Judicial Department.

On August 19, 2008, respondent pled guilty to offering a false instrument for filing in the second degree, in violation of Penal Law § 175.30, a class A misdemeanor, and was sentenced to a one-year conditional discharge and ordered to pay about \$120,000 in restitution and fines. In his plea agreement and at his plea allocution, respondent admitted that he knowingly caused to be filed with the Office of Court Administration (OCA) a closing statement with false information by indicating that his firm paid \$500 for a medical narrative in a client matter when the payment was "also an inducement paid to [the clinic] to refer additional accident vehicle clients to [him]" and constituted "something of value for the solicitation of clients."

Respondent promptly reported his conviction to the Disciplinary Committee and joined in the Committee's petition for a determination that he was convicted of a "serious crime". By

unpublished order entered September 28, 2009, we deemed respondent's misdemeanor conviction a "serious crime" pursuant to Judiciary Law § 90(4)(d) and directed a Hearing Panel to conduct a hearing as to the appropriate sanction.

The Hearing Panel conducted hearings on December 9 and 16, 2009, at which time respondent testified on his own behalf as to the circumstances that led to his conviction. Respondent's three character witnesses testified as to his reputation for honesty and his expression of remorse. Respondent also submitted 26 letters and two affidavits attesting to his good character.

In 1998, respondent began what became a high-volume practice focusing on soft-tissue motor vehicle accident cases. Between June 2003 and January 2005, respondent accepted about 150 referrals from three medical clinics (the Clinics), which constituted approximately 15% of his practice. Respondent purchased narrative medical report packages for \$500-\$1,000 in each case the Clinics referred to him. In addition, he testified that he agreed to represent 10 to 15 clients from the Clinics that he did not want to represent and paid for medical report package fees for those cases in order to keep referrals flowing.

As a result of his arrest and conviction, respondent's law firm dissolved. He is currently a solo practitioner with reduced earnings, handles only a couple of new cases a year and makes per

*diem* appearances for other attorneys, with a nearly 75% decrease in income from \$500,000 per year to \$130,000. Respondent expressed remorse and testified that he has since learned the importance of credibility and has been diligent in observing the ethical rules.

In post-hearing submissions, the Committee and respondent requested a two-year suspension and censure, respectively. In March 2010, the Panel issued its determination, recommending a two-month suspension. The Panel found the following mitigating factors: the abundant evidence of respondent's good character; his contrition; and that he had suffered financially and professionally as a consequence of his misconduct. In aggravation, the Panel found that respondent's \$100 cash payment to a medical clinic manager was "somewhat troubling." The Panel stated that even if, as respondent claimed, the money was a contribution for a clinic employee's birthday party, "it was still putting cash in the hands of a person who referred clients to [r]espondent, and as such was improper." The Panel did not agree with the Committee as to the existence of additional aggravating factors. With regard to the 10 to 15 clients that respondent did not want but accepted, the Panel found there was "no evidence that [r]espondent represented those clients less than satisfactorily or that ... anyone ... influenced any

decision made by [r]espondent in the course of the representation."

The Committee now moves to disaffirm the Hearing Panel's recommendation and to impose a suspension of two years, but in no case less than one year. Respondent cross-moves to affirm the Panel's recommendation of a two-month suspension and to deny the Committee's motion.

As this proceeding involved a "serious crime", the only issue herein is whether a harsher sanction than the two-month suspension recommended by the Hearing Panel is appropriate. In this regard, we find that the Panel's recommendation is in accord with this Court's own precedent (see e.g. *Matter of Meyerson*, 46 AD3d 141 [2007] [public censure for soliciting clients from a clinic by paying \$800 for narrative reports of 11 referred clients over a five-month period and obtaining free narrative reports for the two clients he referred to the clinic, where the attorney had no prior disciplinary history, took responsibility for his actions, expressed remorse and did not think he was harming his clients by paying for reports needed to settle their claims]; *Matter of Ehrlich*, 252 AD2d 73 [1998] [three-month suspension for cash payments made to a hospital employee in connection with 30 client referrals where attorney did not self-report his criminal conviction]; *Matter of Santalone*, 301 AD2d 265 [2002] [three-month suspension imposed on attorney caught

making a \$1,000 cash payment for a client referral during a sting operation where no prior disciplinary record but in the absence of genuine remorse]; *Matter of Setareh*, 264 AD2d 146 [2000] [public censure imposed on relatively inexperienced attorney who twice paid a fee for the referral of clients and who had a drug addiction but stopped using narcotics and entered a drug treatment program after his arrest, where there was no prior disciplinary history and was unwilling to take a case that lacked merit]; *Matter of Hankin*, 296 AD2d 238 [2002] [public censure imposed on attorney who paid an undercover investigator \$375 for a client referral with mitigating factors including public and *pro bono* service, cooperation, and remorse]).

As recognized by the Panel, the misconduct here is more serious than in *Meyerson*, and less egregious than in *Ehrlich*, with the sole aggravating factor of a one time \$100 cash payment and several mitigating factors present, including the apparent lack of prior discipline (which was not noted by the Panel), respondent's expression of remorse and substantial character evidence.

While respondent admits that his acceptance of the 10 to 15 cases that he would have preferred not to handle was akin to a bribe and made in order to induce future referrals and thus, constituted solicitation, there was no evidence that respondent's representation of those individuals was in any way compromised.

Further, given the reduction in respondent's case load and his remorse and contrition, there is no reason to believe that he poses a future threat to the public. Additionally, while respondent's \$100 cash payment to a medical clinic manager is troubling, there is no evidence that the conduct was ever repeated and the one-time payment is considerably less than the repeated conduct which warranted only a three-month suspension in *Ehrlich*, 252 AD2d at 75. We also find that the payment for medical narratives in the subject 10 to 15 cases is less egregious than the cash payments Ehrlich paid for referrals since the "market price" was paid for the narratives, those documents are useful in prosecuting soft-tissue motor vehicle accident claims, and they represent work actually performed by the Clinics in preparing the reports. As recognized by the Hearing Panel in *Meyerson*, this type of "quid pro quo arrangement" is "qualitatively less pernicious than the classic cash-for-client solicitations depicted in *Ehrlich*, *Setareh*, *Hankin* and *Santalone*" (46 AD2d at 145).

*Matter of Becker* (24 AD3d 32, 34-35 [2005]), relied upon by the Committee for the imposition of a longer sanction, states that "[g]enerally misconduct involving ... filing false instruments ... has resulted in sanctions ranging from a short suspension to disbarment depending on the repetitiveness of the misconduct and the desire for personal profit." In *Becker*, the

attorney was suspended for three months for settling a case and accepting a settlement check on behalf of a deceased client, altering settlement documents, having them falsely notarized and filing a false Closing Statement with OCA, conduct more egregious than present here.

Likewise, the Committee's reliance on *Matter of Hanna* (282 AD2d 99 [2001]) is misplaced as the case involves more egregious conduct. There, the attorney was suspended for three years based on his federal conviction for filing 10 false immigration applications using names of fictitious spouses where the attorney falsely certified that he had seen original birth and marriage certificates. The other cases relied upon by the Committee are similarly distinguishable. In *Matter of Nasser* (231 AD2d 247 [1997]), an attorney was suspended for six months for knowingly making false statements in filings with the U.S. Department of Housing and Urban Development in order to allow homeowners to refinance. In *Matter of Adler* (302 AD2d 78 [2003]), the attorney was suspended for one year based on his conviction of offering a false instrument for filing in the second degree in connection with his forgery and false notarization of a deed and related tax documents.

Accordingly, the Committee's motion should be denied, respondent's cross motion should be granted, the findings of fact and conclusions of law of the Hearing Panel should be confirmed,

and respondent should be suspended from the practice of law in the State of New York for a period of two months.

All concur.

Order filed.

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 9, 2010.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,  
David B. Saxe  
David Friedman  
John W. Sweeny  
Leland G. DeGrasse, Justices.

-----X  
In the Matter of Attorneys Who Are  
in Violation of Judiciary Law Section  
468-a:

Departmental Disciplinary Committee  
for the First Judicial Department,  
Petitioner,

M-5682

Elana Carrie Bloom,  
admitted on 2-4-1991, at a  
Term of the Appellate Division,  
First Department,  
(OCA Atty. Reg. No. 2399848)  
Respondent.

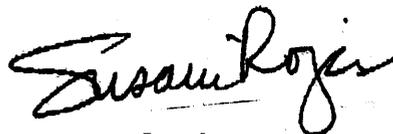
-----X  
An order of this Court having been entered on April 2, 2009 [M-1084.149], inter alia, suspending the above-named respondent from practice as an attorney and counselor-at-law in the State of New York, effective immediately, and until the further order of this Court, for failure to comply with Judiciary Law §468-a,

And respondent having moved for an order granting reinstatement as an attorney and counselor-at-law in the State of New York,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, and it appearing that respondent complied with Judiciary Law §468-a on or about November 15, 2010, subsequent to the effective date of the aforesaid order,

It is ordered that the motion is granted and respondent is reinstated as an attorney and counselor-at-law in the State of New York, effective the date hereof.

ENTER:

  
Clerk

PM ORDERS

ENTERED

DECEMBER 7, 2010

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 2, 2010.

Present: Hon. David Friedman, Justice Presiding,  
John W. Sweeny, Jr.  
James M. Catterson  
Diane T. Renwick  
Nelson S. Román,, Justices.

-----X  
Cantor Fitzgerald Securities,  
Petitioner-Respondent,

For a Judgment Pursuant to Article 75 M-5167  
of the Civil Practice Law and Rules, Index No. 105354/10

-against-

Refco Securities, LLC,  
Respondent-Appellant.  
-----X  
Refco Securities, LLC,  
Petitioner-Appellant,

For a Judgment Pursuant to Article 75 Index No. 601057/10  
of the Civil Practice Law and Rules,

-against-

Cantor Fitzgerald Securities,  
Respondent-Respondent.  
-----X

The respective and above-named parties having jointly moved for consolidation of the appeals taken by respondent/petitioner-appellant, Refco Securities, LLC, from the order and a judgment of the Supreme Court, New York County, entered on or about August 3, 2010 (mot. seq. no. 002) [Index No. 601057/10] and the order and judgment of the same Court and Justice entered on or about August 9, 2010 [Index No. 105354/10],

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of permitting appellant to prosecute the consolidated appeals upon 8 copies of one record and of one set of appellant's points covering the appeals.

ENTER: 

Clerk.