

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 July 27, 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-3226
Case No. 4971C/05

Demoyne Anderson,
Defendant-Appellant.

-----x

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about April 16, 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 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 10 reproduced copies of such brief, together with the original record, with 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.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. (212)577-3688 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 July 27, 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-3227
Ind. No. 770/08

Sean Baker,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about May 12, 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 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 10 reproduced copies of such brief, together with the original record, with 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.

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 July 27, 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-3228
Ind. No. 408/03

Michael Martinez, also known as Michael Cono,
Defendant-Appellant.

-----x

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about May 14, 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 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 10 reproduced copies of such brief, together with the original record, with 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.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. (212)577-3688 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 July 27, 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-3229
Ind. No. 3605/07

Jahmal Nelson,
Defendant-Appellant.

-----x

Defendant having moved for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about June 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 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 10 reproduced copies of such brief, together with the original record, with 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.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. (212)577-3688 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 July 27, 2010.

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

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

-against-

M-3230
Ind. No. 4140/03

Antonio Pearson,
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 May 25, 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 10 reproduced copies of such brief, together with the original record, with this Court.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, 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 July 27, 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-3231
Ind. No. 3505/04

Edwardo Rivera,
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 May 4, 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 10 reproduced copies of such brief, together with the original record, with this Court.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. (212) 577-3688, 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 July 27, 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-3232
Ind. Nos. 424/10
3052/09

Edgar Blanco,
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 1, 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 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 10 reproduced copies of such brief, together with the original record, with this Court.

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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 July 27, 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-3233
Ind. No. 3128/03

Milton Joseph, also known as Anthony
Joseph, also known as Keston Watson,
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 May 10, 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 10 reproduced copies of such brief, together with the original record, with 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.

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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 July 27, 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-3234
Ind. No. 4803/09

Andy Cepeda,
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 5, 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 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 10 reproduced copies of such brief, together with the original record, with 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.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. (212)577-3688 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 July 27, 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-3236
Ind. No. 807/09

Daniel Gonzalez,
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 7, 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 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 10 reproduced copies of such brief, together with the original record, with 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 July 27, 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-3237
Ind. No. 4106N/09

John Harris,
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 3, 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 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 10 reproduced copies of such brief, together with the original record, with 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 July 27, 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-3238
Ind. No. 2174/04

William Lopez,
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 May 11, 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 10 reproduced copies of such brief, together with the original record, with 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 July 27, 2010.

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

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

-against-

M-3239
Ind. No. 6046/08

Salvador Lozado,
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 February 25, 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 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 10 reproduced copies of such brief, together with the original record, with 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.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. (212)577-3688 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 July 27, 2010.

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

-----X

The People of the State of New York,
Respondent,

-against-

M-3240
Ind. No. 1557/02

Louis Ruthledge,
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 February 10, 2009, 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 10 reproduced copies of such brief, together with the original record, with this Court.

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 July 27, 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-3241
Ind. No. 867/09

Jonathan Salva,
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 26, 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 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 10 reproduced copies of such brief, together with the original record, with 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.

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 July 27, 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-3242
Ind. No. 3418/09

Derek A. Samuel,
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 1, 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 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 10 reproduced copies of such brief, together with the original record, with this Court.

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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 July 27, 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-3243
Ind. No. 677/10

Paul Smiley,
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 5, 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 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 10 reproduced copies of such brief, together with the original record, with 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 July 27, 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-3244
Ind. No. 3928/09

Savannah Stinson,
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 March 18, 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 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 10 reproduced copies of such brief, together with the original record, with 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.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. (212)577-3688 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 July 27, 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-3245
Ind. No. 8704/99

Michael Verdel, also known as
Michael Verdal,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from the order of resentence of the Supreme Court, New York County, entered on or about April 23, 2010, 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 10 reproduced copies of such brief, together with the original record, with 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.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, 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 July 27, 2010.

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

-----X
The Estate of Charles Everett Whipple,
by Richard A. Fenn as Executor,
Plaintiff-Respondent,

-against-

M-3224X
Index No. 114852/09

Wilfredo Lopez,
Defendant-Appellant.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about April 8, 2010 (mot. seq. no. 001),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" June 21, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation. (See M-3099, decided simultaneously herewith.)

ENTER:


Clerker

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 July 27, 2010.

Present - Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

-----x
The Estate of Charles E. Whipple,
by Richard A. Fenn as Executor,
Plaintiff-Respondent,

-against-

M-3099
File No. 1255-2009

Wilfredo Lopez,
Defendant-Appellant.

-----x

An appeal having been taken to this Court from an order of the Surrogate's Court, New York County, entered on or about April 7, 2010,

And defendant-appellant having moved for a Writ of Mandamus with respect to the Clerk of the Surrogate's Court, New York County, 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 in its entirety.
(See M-3224X, decided simultaneously herewith.)

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 July 27, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
John W. Sweeny, Jr.
Rolando T. Acosta
Dianne T. Renwick
Nelson S. Román, Justices.

-----X
In the Matter of the Application for
the Guardianship and Custody of

Calvario Chase Norall W.,
also known as Calvario W.,

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

Edwin Gould Services for Children
and Families, et al.,
Petitioners-Respondents,

M-2225
Docket No. B-11215/09

Denise W.,
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, Bronx County, entered on or about February 23, 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, Kenneth M. Tuccillo, Esq., 385 Warburton Avenue, Hastings on Hudson, New York 10706, Telephone No. 914-439-4843, 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

July 27, 2010

inclusion in the record on appeal, the cost thereof to be charged against the City of New York from funds available therefor¹ 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 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

¹Service 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 July 27, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
Richard T. Andrias
James M. Catterson
Dianne T. Renwick
Sallie Manzanet-Daniels, Justices.

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

Earl B. G., Petitioner-Appellant, M-2445
Docket Nos. V5404/07
V5404-07/10C

-against-

Shenette T.,
Respondent-Respondent.

-----X

Petitioner-appellant having moved for leave to prosecute, as a poor person, the appeal from the "so ordered" transcript of the Family Court, New York County, entered on or about April 13, 2010, 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 granted to the extent of
(1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, John J. Marafino, Esq., 9 West Prospect Ave., Mount Vernon, NY 10550, Telephone No. (914) 663-1500, 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

July 27, 2010

of New York from funds available therefor¹ 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) directing appellant to perfect this appeal 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

¹Service 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 July 27, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
John W. Sweeny, Jr.
Rosalyn H. Richter
Sheila Abdus-Salaam
Nelson S. Román, Justices.

-----X
In the Matter of the Application of
Doris Mitchell,
Petitioner-Appellant,

M-2712
Index No. 401938/09

For a Judgment, etc.,

-against-

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 and judgment (one paper) of the Supreme Court, New York County, entered on or about March 24, 2010, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, for a stay of eviction pending hearing and determination of said appeal, 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 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 attorney for respondent and file 10 copies of such brief, 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. So much of the motion which seeks a stay of eviction 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 July 27, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
Richard T. Andrias
James M. Catterson
Sallie Manzanet-Daniels, Justices.

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

-against-

M-2632
Ind. No. 3121/06

Ronald Chestnut, also known as Roland
Chestnut,
Defendant-Appellant.

-----X

An appeal having been taken from the judgment of the Supreme Court, Bronx County, rendered on or about August 1, 2008,

And defendant having moved for an order remanding this matter to Supreme Court, Bronx County, for a reconstruction hearing,

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 July 27, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
David B. Saxe
David Friedman
Eugene Nardelli, Justices.

-----X
Idelfonso Rivera, Sr., et al.,

Plaintiffs-Appellants-Respondents,

-against-

M-2687
M-2835
Index No. 25355/93

The City of New York, et al.,

Defendants-Respondents-Appellants.

-----X

Plaintiffs-appellants-respondents 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 May 15, 2007 [Appeal No. 9465] (M-2687),

And defendants-respondents-appellants having cross-moved to dismiss plaintiffs' motion as untimely (M-2835),

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

It is ordered that defendants' cross motion (M-2835) is granted and plaintiffs' motion (M-2687) is dismissed as untimely. (See 22 NYCRR Sec. 600.14 and CPLR Sec. 5513)

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 July 27, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
Angela M. Mazzarelli
Eugene Nardelli
Rolando T. Acosta
Sheila Abdus-Salaam, Justices.

-----X
Antoni Wilinski, et al.,
Plaintiffs-Respondents,

-against-

M-2402
Index No. 117632/05

334 East 92nd Housing Development
Fund Corp., et al.,
Defendants-Appellants.

-----X

Defendants-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 March 23, 2010 (Appeal No. 2232),

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, to the extent it seeks reargument, is denied. So much of the motion which seeks leave to appeal to the Court of Appeals is granted, and this Court, pursuant to CPLR 5713, certifies that the following question of law, decisive of the correctness of its determination, has arisen, which in its opinion ought to be reviewed by the Court of Appeals:

"Was the order of this Court, which modified the order of the Supreme Court, properly made?"

This Court further certifies that its determination was made as a matter of law and not in the exercise of discretion.

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 July 27, 2010.

Present: Hon. Peter Tom, Justice Presiding,
David Friedman
James M. McGuire
Rolando T. Acosta
Nelson S. Román, Justices.

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

-against- M-2613
Ind. No. 1790/09

O'Brian L. Perry, also known as
O'Brian Perry,
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 January 20, 2010, 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, 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, with 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 July 27, 2010.

Present: Hon. Peter Tom, Justice Presiding,
David Friedman
James M. McGuire
Rolando T. Acosta
Nelson S. Román, Justices.

-----X
In the Matter of

Daniel E.,

A Person Alleged to Be a Juvenile
Delinquent,

M-2658
Docket No. D-563/09

Respondent-Appellant.
-----X

Respondent having moved for leave to prosecute the appeal from the order of the Family Court, New York County, entered on or about December 17, 2009, and the order of disposition of said Court entered on or about April 18, 2010, as a poor person, 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 Section 35 of the Judiciary Law and Section 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 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 State of New York from funds available therefor;¹ 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) directing appellant to perfect this appeal 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

¹Service of appellant's brief upon respondent 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 July 27, 2010.

Present: Hon. Peter Tom, Justice Presiding,
David Friedman
James M. McGuire
Rolando T. Acosta
Nelson S. Román, Justices.

-----X
In the Matter of

Kathleen Shaquana G.,

A Dependent Child under 18 Years
of Age Pursuant to §384-b
of the Social Services Law.

M-2675
Docket No. B5208/04

McMahon Services for Children,
a Program of Good Shepherd
Services, et al.,
Petitioners-Respondents,

Crystal Edith W., also known as
Crystal W.,
Respondent,

Stephen G.,
Respondent-Appellant.

Betsy Kramaer, Esq., Lawyers for
Children,
Law Guardian for the Child.

-----X
Respondent-appellant father 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 April 8, 2010, 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

July 27, 2010

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, Julian A. Hertz, Esq., 200 East 84th Street, #6F, New York, NY 10028, Telephone No. (914) 834-5461 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 therefor¹ 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) directing appellant to perfect this appeal 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

¹Service 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 July 27, 2010.

Present: Hon. Peter Tom, Justice Presiding,
Angela M. Mazzairelli
John W. Sweeny, Jr.
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
In the Matter of a Support Proceeding
Under Article 4 of the Family Court Act.

- - - - -
Commissioner of Social Services, on
behalf of Deborah D.,
Petitioner-Respondent,

M-2781
Docket No. F34185/09

-against-

Zouhier B.,
Respondent-Appellant.

-----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 April 8, 2010, 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 granted to the extent of
(1) assigning, 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, NY 10601, Telephone No. (914) 949-8214, 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

July 27, 2010

of New York from funds available therefor¹ 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) directing appellant to perfect this appeal 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

¹Service 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 July 27, 2010.

Present: Hon. Peter Tom, Justice Presiding,
Angela M. Mazzairelli
John W. Sweeny, Jr.
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
In the Matter of

Carl J.,
Carl Antonio J.,
Kia J.,
Kenneth J.,
Carllinda J.
and Keliezer J.,

M-2760
Docket Nos. NN1112-5/09
NN50937/09
NN50938/09

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

Administration for Children's
Services,
Petitioner-Respondent,

Carl J., Sr.,
Respondent-Appellant.

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

-----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 April 29, 2010, 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 granted to the extent of
(1) assigning, pursuant to Article 18b of the County Law and

July 27, 2010

§1120 of the Family Court Act, Howard M. Simms, Esq., 295 Greenwich St., #222, New York, NY 10007, Telephone No. (212) 655-5802, 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 therefor¹ 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) directing appellant to perfect this appeal 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

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

CORRECTED ORDER - July 30, 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 July 27, 2010.

Present: Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
David Friedman
Eugene Nardelli
Rosalyn H. Richter, Justices.

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

-against-

M-2777
Ind. Nos. 307/08

Andrew Smith,
Defendant-Appellant.

-----X

Defendant having renewed his motion for leave to prosecute, as a poor person, the appeals from judgments of the Supreme Court, New York County, rendered on or about March 22, 1990 (Indictment No. 8561/89) and on or about October 5, 2009 (Indictment No. 307/08), for leave to have the appeals heard upon the original record(s) 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 only to the extent of permitting the appeal from the judgment rendered on or about October 5, 2009 (Indictment No. 307/08), to be heard upon 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, with 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.

Steven Banks, Esq., 199 Water Street, 5th Floor, New York, New York 10038, Telephone No. 212-577-3688, 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. So much of the motion which seeks poor person relief with respect to the appeal from the judgment rendered on or about March 22, 1990 (Indictment No. 8561/89) 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 July 27, 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-2415
Ind. No. 2296/06

James Lattimore,
Defendant-Appellant.

-----X

Defendant having renewed his motion for leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about December 12, 2007, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, to proceed pro se 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 denied, with leave to renew upon defendant's submission of a notarized affidavit, pursuant to CPLR 1101, setting forth the amount and sources of funds to pay the fee of trial counsel, Manuel A. Sanchez, Jr., Esq., 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. So much of the motion which seeks to proceed pro se on the appeal is denied. Defendant's attention is directed to the correspondence dated April 30, 2010 from the Clerk of the Court to defendant, a copy of which is annexed hereto.

ENTER:


Clerk.

Supreme Court of the State of New York
Appellate Division - First Department
27 Madison Avenue
New York, N.Y. 10010
(212) 340-0400

April 30, 2010

James Lattimore, 07-A-7020
Clinton Corr. Fac.
P.O. Box 2001
Dannemora, N.Y. 12929

Re: People v. James Lattimore
Bronx County 2296/06

Dear Mr. Lattimore:

In response to your application for Permission to Proceed Pro Se, and for Poor Person Relief, returnable May 21, 2010, please be advised of the following:

A knowing and intelligent waiver of your right to appellate counsel will be honored by the Court. However, a decision to represent yourself should reflect a genuine desire to conduct your appeal in your own words. Moreover, your decision should reflect your understanding that you are subjecting yourself to all the risks of representing yourself.

Generally speaking, criminal defendants-appellants can better express their claims with counsel's guidance than by their own unskilled efforts. In this regard, skeptical as you may be of counsel's capacity to serve you competently or zealously, in making your decision to proceed on your own, consider that an attorney is a trained professional.

If you wish to pursue your motion, please respond to this notice before the return date listed above.

Yours truly,



CLERK
David Spokony

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 July 27, 2010.

Present - Hon. Peter Tom, Justice Presiding,
David Friedman
James M. McGuire
Rolando T. Acosta, Justices.

-----X
In the Matter of the Application of
Margaret Betts,
Petitioner,

For a Judgment, etc.,

M-2845
Index No. 403140/08

-against-

New York City Housing Authority,
Respondent.

-----X

An Article 78 proceeding to review a determination of respondent having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about June 1, 2009 (mot. seq. no. 001),

And petitioner having moved for leave to prosecute the proceeding as a poor person, for leave to have the proceeding heard on the original record and upon a reproduced brief, and for an enlargement of time in which to perfect the proceeding,

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

It is ordered that the motion is denied and, sua sponte, the proceeding is dismissed.

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 July 27, 2010.

Present: Hon. Peter Tom, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
James M. McGuire, Justices.

-----X
Janith King, as the Administratrix
of the Estate of Thorrie Murray,
Deceased,

Plaintiff-Appellant,

M-2881
Index No. 7431/01

-against-

St. Barnabas Hospital, 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, Bronx County, entered on or about August 4, 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 November 2010 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 July 27, 2010.

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

-----X
Jeffrey Katz,
Plaintiff-Appellant,

Fabiola Colas,
Plaintiff,

M-2542
Index No. 100574/09

-against-

Quality Building Services Corp.,
Defendant-Respondent.

-----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 July 7, 2009 (mot. seq. no. 001), and for leave to file an electronic copy of a certain report,

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 on or before September 7, 2010 the November 2010 Term, and 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 July 27, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
Karla Moskowitz
Leland G. DeGrasse
Sheila Abdus-Salaam
Sallie Manzanet-Daniels, Justices.

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

Loretta Gibbs,

Petitioner,

M-2460

Index No. 400153/09

For a Judgment Pursuant to Article 78
of the CPLR,

-against-

New York City Housing Authority,

Respondent.
-----X

An Article 78 proceeding to review a determination of respondent, having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about January 25, 2010 (mot. seq. no. 001),

And petitioner having moved for leave to prosecute the proceeding as a poor person, upon the original record and reproduced petitioner's 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 permitting the proceeding to be heard on the original record and upon a reproduced petitioner's brief, on condition that petitioner serves one copy of such brief upon the attorney for the respondent and file 10 copies of such brief, together with the original record, with this Court. Petitioner is permitted to dispense with payment of the required fee for the subpoena and filing of the record. Petitioner is directed to perfect the proceeding on or before October 4, 2010 for the December 2010 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 July 27, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
Karla Moskowitz
Leland G. DeGrasse
Sheila Abdus-Salaam
Sallie Manzanet-Daniels, Justices.

-----X
In the Matter of

Dianne M.,
Petitioner-Respondent,

-against-

M-2591
Docket No. G3484/09

Princess R. F.,
Respondent-Appellant.
-----X

Respondent-appellant 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 April 7, 2010, 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 granted to the extent of
(1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Julian A. Hertz, Esq., 200 East 84th Street, #6F, New York, NY 10028, Telephone No. (914) 834-5461, 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

July 27, 2010

of New York from funds available therefor¹ 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) directing appellant to perfect this appeal 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.

¹Service 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 July 27, 2010.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
James M. McGuire
Leland G. DeGrasse
Helen E. Freedman
Rosalyn H. Richter, Justices.

-----X
In the Matter of

Jessica R.,

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

- - - - -
The Commissioner of Social Services
of the City of New York,
Petitioners-Respondents,

M-2331
Docket No. NA-16450/09

Nelson R.,
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 March 25, 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, Steven N. Feinman, Esq., 19 Court Plaza, Suite 201, White Plains, New York 10601, Telephone No. 914-949-8214, 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

July 27, 2010

of New York from funds available therefor¹ 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 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

¹Service 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 July 27, 2010.

Present: Hon. Angela M. Mazzairelli, Justice Presiding,
Karla Moskowitz
Leland G. DeGrasse
Sheila Abdus-Salaam
Sallie Manzanet-Daniels, Justices.

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

-against- M-2733
Case No. 32162C/05

Virgilio Samo,
Defendant-Appellant.

-----X

An order of this Court having been entered on January 26, 2010 (M-5539) granting defendant leave to prosecute, as a poor person, the appeal from the judgment of the Supreme Court, Bronx County, rendered on or about July 17, 2008,

And assigned counsel, Richard M. Greenberg, Esq., having moved for an order to be relieved as counsel for defendant and to substitute other counsel to prosecute defendant's 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 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 July 27, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
James M. McGuire
Leland G. DeGrasse
Helen E. Freedman
Rosalyn H. Richter, Justices.

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

-against-

M-2315
Ind. Nos. 5431N/03
8560/00

Alberto Polanco,
Defendant-Appellant.

-----X

An order of this Court having been entered on February 16, 2006 (M-292) 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 May 25, 2005, and assigning Richard M. Greenberg, Esq., as counsel to prosecute the appeal; and defendant having moved multiple times to relieve various assigned counsel and said relief having been granted,

And an order of this Court having been entered on April 15, 2010 (M-1265) granting defendant's motion to relieve assigned counsel, Mitchell Dranow, Esq., and substituting John Lewis, Esq., as counsel on the appeal,

And defendant having now moved for an order relieving John Lewis, Esq., and assigning new counsel to prosecute his 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 striking the designation of assigned counsel John Lewis, Esq., as counsel to prosecute defendant's appeal, and substituting, pursuant to Section 722 of the County Law, Andrea Risoli, Esq., 954 Lexington Avenue, Suite 143, New York, NY 10021, Telephone No. (212) 374-1241, 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 July 27, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
Karla Moskowitz
Leland G. DeGrasse
Sheila Abdus-Salaam
Sallie Manzanet-Daniels, Justices.

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

Respondent,

-against-

M-2597
Ind. No. 6607/07

Vincent Roberts,

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, New York County, rendered on or about December 21, 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 deeming the notice of appeal timely filed.

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 July 27, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
Dianne T. Renwick
Helen E. Freedman
Rosalyn H. Richter
Sheila Abdus-Salaam, Justices.

-----X
Natalie Esterman, et al.,

Plaintiffs-Respondents,

-against-

M-2935
Index No. 114405/08

Law Office of Gideon Stephen Schwartz,
P.C., et al.,

Defendants-Appellants.
-----X

Defendants-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 July 13, 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 on or before September 7, 2010 for the November 2010 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 July 27, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
Dianne T. Renwick
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
Siu Nam Wong Pun,

Plaintiff-Respondent,

-against-

Che Kwok Pun,

Defendant-Appellant.
-----X

M-2862
Index No. 305736/07

Defendant-appellant having moved for a stay of all proceedings pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about March 10, 2010 (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 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 July 27, 2010.

Present: Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Helen E. Freedman
Nelson S. Román, Justices.

-----X
In re 47 Ave. B East Inc.,

Petitioner,

-against-

M-2574
Index No. 101299/09

New York State Liquor Authority,

Respondent.
-----X

Respondent having moved for reargument of the decision and order of this Court entered on April 8, 2010 (Appeal No. 1620),

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 July 27, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

-----X
In the Matter of

Kapone Terrell Q., also known as
Kapone T. Q.,
and Tia Simone Q., also known as
Tia S. Q.,

M-3031
Docket Nos. B6492/09
B6491/09

Dependent Children under 18 Years
of Age Pursuant to §384-b of the
Social Services Law.

Jewish Child Care Association,
et al.,
Petitioners-Respondents,

Saida Abdullah E.,
Respondent-Appellant.

Janette Cortes-Gomez, Esq.,
Law Guardian for the Children.

-----X
Respondent-appellant having moved for leave to prosecute, as a poor person, the appeal from an order of the Family Court, Bronx County, entered on or about April 29, 2010, 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 granted to the extent of (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Randall Carmel, Esq., 53 Jackson Avenue, Syosset, NY 11791, Telephone No. (603) 313-1951, as counsel for

July 27, 2010

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 therefor¹ 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) directing appellant to perfect this appeal 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.

¹Service 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 July 27, 2010.

Present - Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

-----X
Wanda Santiago,

Petitioner-Appellant,

For a Judgment Pursuant to Article 78
of the CPLR,

-against-

M-3015
M-3084
Index No. 400546/09

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 August 26, 2009 (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 other relief,

And respondent-respondent having cross-moved for dismissal of the aforesaid appeal,

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

It is ordered that the motion is denied, the cross motion is granted and the appeal is dismissed.

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 July 27, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

-----X
In the Matter of

Sydney D.,

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

M-3003
Docket No. NN11325/08

Administration for Children's
Services,
Petitioner-Respondent,

Sidney D.,
Respondent-Appellant,

Bernadette W.,
Respondent.

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

-----X

An order of this Court having been entered on December 29, 2009 (M-4622), inter alia, assigning Geoffrey P. Berman, Esq., as counsel to prosecute respondent-appellant father's appeal from the order of the Family Court, Bronx County, entered on or about March 5, 2009,

And assigned counsel having moved for an order abating the appeal by reason of respondent-appellant's death, and to be relieved as counsel on 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 relieving assigned counsel, Geoffrey P. Berman, Esq., as counsel on the appeal, dismissing said appeal due to respondent-appellant's death, and remanding the matter to the Family Court, Bronx County, for proceedings to vacate the findings of facts.

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 July 27, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

-----X
Long Industries, Inc.,
Plaintiff-Appellant,

-against-

M-2683
Index No. 112015/03

The Aetna Casualty & Surety Company,
Perez Interboro Asphalt Co., Inc.
and The City of New York,
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 July 27, 2009 (mot. seq. no. 003),

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 November 2010 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 July 27, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

-----X
Ronald Jacobus,
Plaintiff-Appellant,

-against-

M-2936
Index No. 113894/08

Battery Park Hotel Management, LLC,
Defendant-Respondent.
-----X

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from an order of the Supreme Court, New York County, entered on or about March 5, 2009 (mot. seq. no. 001),

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 November 2010 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 July 27, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
David Friedman
Eugene Nardelli
Rolando T. Acosta, Justices.

-----X
Hui-Cong Lin and Zhong-Yue Ouyang,

Plaintiffs-Respondents,

-against-

M-2774
Index No. 8303/07

Pacha Corp., JMED Holdings, LLC
and RM Holdings Company, Inc.,

Defendants-Appellants.
-----X

Defendant-appellant JMED Holdings, LLC having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, Bronx County, entered on or about August 12, 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 on or before October 4, 2010 for the December 2010 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 July 27, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

-----X
Panasia Estate, Inc.,
Plaintiff-Appellant,

-against-

M-2876
Index No. 104355/09

Daniel R. Broche, as Ancillary
Executor of the Estate of
Agnes M. Broche, Property 51 LLC
and Property 215 LLC,
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 September 9, 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 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 July 27, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

-----X
Meyer Glickman and Beatrice
Soury-Lavergne,
Plaintiffs-Respondents,

-against-

M-2921

M-3020

Horace A. Creary, George Tawia,
Defendants-Appellants,

Index No. 110545/07

Phung T. Pham,
Defendant-Appellant,

The City of New York, et al.,
Defendants.

-----X

Defendants-appellants having moved, by separate motions, for an enlargement of time in which to perfect their previously consolidated appeals from the order of the Supreme Court, New York County, entered on or about January 7, 2009 (mot. seq. no. 004),

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

It is ordered that the motions are granted to the extent of enlarging the time in which to perfect the consolidated appeals to the January 2011 Term, with leave for a further enlargement upon an explanation for the delay in the appointment of an administrator.

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 July 27, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
Eugene Nardelli
James M. Catterson
Leland G. DeGrasse
Sallie Manzanet-Daniels, Justices.

-----X
Regina Carter,

Plaintiff-Respondent,

-against-

Isabella Geriatric Center, Inc.,

Defendant-Appellant.
-----X

M-1400

Index No. 118304/04

Plaintiff-respondent having moved for the recall and vacatur of the decision and order of this Court entered on March 4, 2010 (Appeal No. 2303N),

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 July 27, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

-----X
ACC Construction Corporation and
Virginia Surety Company,
Plaintiffs-Appellants,

M-3047
M-3180
M-3131

-against-

Index No. 603713/06

Tower Insurance Company of New York
and Breen Electrical Contractors,
Inc.,
Defendants-Respondents.

-----X
Tower Insurance Company of New York,
Third-Party Plaintiff-Appellant,

-against-

Third Party
Index No. 580703/08

Nilly Tammy Perner Kasza,
individually, and as Administratrix
of the Goods, Credits and Chattels
of Edward Kasza,
Third-Party Defendants-Respondents.

-----X

An appeal and an appeal denominated a cross appeal having been taken from an order and judgment (one paper) of the Supreme Court, New York County, entered on or about August 25, 2009,

And plaintiffs-appellants having moved (M-3047) for an enlargement of time in which to perfect their appeal,

And defendant-third-party plaintiff-appellant Tower Insurance Company of New York having cross-moved (M-3180) for an enlargement of time in which to perfect its appeal denominated a cross appeal,

And third-party defendant-respondent Nilly Tammy Perner Kasza have cross-moved (M-3131) to dismiss the aforesaid appeals,

July 27, 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 and cross motion (M-3047/M-3180) are granted to the extent of enlarging the time of the respective appellants in which to perfect the appeal(s) to the November 2010 Term. Sua Sponte, leave is granted to appellants to perfect the appeal(s) upon a joint record. The attention of the parties is directed to Rule 600.11(d) of this Court with respect to a joint record and costs thereof. The cross motion (M-3131) is granted to the extent of dismissing the respective appeal(s) unless perfected for the November 2010 Term. Upon failure to so perfect, an order dismissing the respective appeal(s) may be entered ex parte, provided respondent(s) serve a copy of this order upon the appellant(s) within 10 days after the date of entry hereof.

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 July 27, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

-----X
Ed Watt, as Secretary-Treasurer of
Transport Workers Union of America,
Local 100, et al.,

Petitioners-Respondents,
-against-

M-2824
Index No. 112001/09

Howard H. Roberts, Jr., etc., et al.,

Respondents-Appellants.
-----X

An appeal having been taken from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about December 18, 2009 (mot. seq. no. 001),

And petitioners having moved to dismiss the aforesaid appeal or, in the alternative, to vacate the statutory stay afforded the municipal appellants and directing the immediate perfection of 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 vacating the statutory stay afforded the municipal appellants unless the appeal is perfected on or before September 7, 2010 for the November 2010 Term. Upon failure to so perfect, an order vacating the stay may be entered ex parte, provided that petitioner(s) serve a copy of this order upon appellant(s) within 10 days after the date of entry hereof. So much of the motion which seeks dismissal of the appeal is denied, without prejudice to petitioners advancing the argument directly on 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 July 27, 2010.

Present - Hon. David B. Saxe, Justice Presiding,
David Friedman
Eugene Nardelli
Karla Moskowitz
Rosalyn H. Richter, Justices.

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

-against-

M-2783
Ind. No. 3661/98

Rodney Samuels,
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 May 18, 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 10 reproduced copies of such brief, together with the original record, with 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 July 27, 2010.

Present: Hon. David B. Saxe, Justice Presiding,
David Friedman
Eugene Nardelli
Karla Moskowitz
Rosalyn H. Richter, Justices.

-----X
In the Matter of

Taysean S.,

A Person Alleged to Be a Juvenile
Delinquent,

M-2816
Docket No. D6084/10

Respondent-Appellant.
-----X

Respondent-appellant having moved for leave to prosecute the appeal from an order of the Family Court, Bronx County, entered on or about May 5, 2010, as a poor person, 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 Section 35 of the Judiciary Law and Section 1120 of the Family Court Act, Randall Carmel, Esq., 53 Jackson Avenue, Syosset, NY 11791, Telephone No. (603) 313-1951, 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 State of New York from funds available therefor;¹ 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) directing appellant to perfect this appeal 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

¹Service of appellant's brief upon respondent 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 July 27, 2010.

Present: Hon. David B. Saxe, Justice Presiding,
David Friedman
Eugene Nardelli
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
In the Matter of

Keyon Leviro W.,

A Dependent Child under 18 Years
of Age Pursuant to §384-b of the
Social Services Law.

M-1807
Docket No. B8171/06

- - - - -
McMahon Services for Children, a
Program of Good Shepherds Services,
et al.,
Petitioners-Appellants,

Angela B.,
Respondent-Respondent.

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

-----X

Respondent-respondent mother having moved for leave to respond, as a poor person, to the appeal from the order of the Family Court, New York County, entered on or about March 18, 2009, and for the 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 (1) permitting movant to respond to the appeal upon a reproduced respondent's brief, on condition that one copy of such brief be served upon the attorneys for respondent-appellant and 10 copies thereof are to be filed with this Court, and (2) assigning, pursuant to Section 18b of the County Law and § 1120 of the Family Court Act, Steven N. Feinman, Esq., 19 Court Plaza, Suite 201, White Plains, NY 10601, Telephone No. (914) 949-8214, as counsel 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 July 27, 2010.

Present: Hon. David B. Saxe, Justice Presiding,
David Friedman
Eugene Nardelli
Karla Moskowitz
Rosalyn H. Richter, Justices.

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

Anita Jordan,
Petitioner,

M-2854
Index No. 402705/08

For a Judgment Pursuant to Article
78 of the CPLR,

-against-

New York City Housing Authority,
Respondent.

-----X

An Article 78 proceeding to review a determination of respondent, having been transferred to this Court, pursuant to CPLR 7804(g), by order of the Supreme Court, New York County, entered on or about May 19, 2009 (mot. seq. no. 001),

And petitioner having moved for leave to prosecute the proceeding as a poor person, upon the original record and reproduced petitioner's brief,

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

It is ordered that sua sponte the proceeding is dismissed. Leave to prosecute said proceeding as a poor person is denied, as academic.

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 July 27, 2010.

Present: Hon. David B. Saxe, Justice Presiding,
David Friedman
Eugene Nardelli
Karla Moskowitz
Rosalyn H. Richter, Justices.

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

-against-

M-2790
Ind. No. 3829/08

Levon Pratt, also known as Pratt
Levon,
Defendant-Appellant.

-----X

Defendant-appellant, in connection with an appeal taken from the judgment of the Supreme Court, New York County, rendered on or about July 9, 2009, having moved for leave to file a pro se supplemental 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 directing defendant to serve and file 10 copies of his pro se supplemental brief on or before October 4, 2010 for the December 2010 Term, to which Term the appeal is adjourned. The Clerk of the Court is directed to forward to the Warden at the State correctional facility wherein defendant is incarcerated a transcript of the minutes relating to defendant's appeal, said transcript to be made available to appellant and returned by appellant to this Court when submitting the pro se supplemental brief hereto. 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 July 27, 2010.

Present - Hon. David B. Saxe, Justice Presiding,
David Friedman
Eugene Nardelli
Karla Moskowitz
Rosalyn H. Richter, Justices.

-----x
Gerard A. Connolly,
Plaintiff-Respondent,

-against-

M-2709
Index No. 105224/05

Napoli, Kaiser & Bern, LLP, Paul J.
Napoli, Marc J. Bern, Gerald Kaiser
and Napoli Bern, LLC,
Defendants-Appellants.
-----x

Separate appeals having been taken to this Court from orders of the Supreme Court, New York County, entered on or about July 24, 2009 (mot. seq. no. 012) and August 4, 2009 (mot. seq. no. 013), respectively,

And defendants-appellants having moved for an enlargement of time in which to perfect the appeals,

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 appeals, which are sua sponte consolidated, to on or before September 7, 2010 for the November 2010 Term. Appellants are permitted to prosecute the appeals upon 10 copies of one record and one set of appellant's points covering the appeals.

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 July 27, 2010.

PRESENT: Hon. David B. Saxe, Justice Presiding,
David Friedman
Rolando T. Acosta
Dianne T. Renwick
Sheila Abdus-Salaam, Justices.

-----X
CPS Operating Company LLC,
Plaintiff-Respondent,

-against-

M-3039
Index No. 604262/07

Pathmark Stores, Inc.,
Defendant-Appellant.
-----X

Plaintiff-respondent having moved for leave to appeal to the Court of Appeals from the decision and order of this Court entered on June 1, 2010 (Appeal No. 1643),

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 this Court, pursuant to CPLR 5713, certifies that the following question of law, decisive of the correctness of its determination, has arisen, which in its opinion ought to be reviewed by the Court of Appeals:

"Was the order of this Court, which reversed the order of Supreme Court, properly made?"

This Court further certifies that its determination was made as a matter of law and not in the exercise of discretion.

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 July 27, 2010.

Present: Hon. David Friedman, Justice Presiding,
James M. McGuire
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Chelsea 19 Associates,
Petitioner-Respondent,

-against-

M-1484
Index No. 570746/07

Warren James,
Respondent-Appellant.
-----X

A decision and order of this Court having been entered on November 24, 2009 (Appeal No. 1553),

And petitioner-respondent landlord having moved for an order directing James B. Fishman, Esq., to release tenant's escrow funds to petitioner-respondent landlord for rental arrears, and for attorney's fees and sanctions,

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 ordering that the escrow funds be released to petitioner-respondent landlord within two weeks of the date of entry of this order. So much of the motion which seeks attorney's fees and sanctions 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 July 27, 2010.

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

-----X
Orly Genger,
Plaintiff-Respondent,

-against-

M-3061
Index No. 100697/08

Sagi Genger,
Defendant-Appellant.

-----X
Sagi Genger,
Third-Party Plaintiff-Appellant,

Index No. 590215/09

-against-

Arie Genger,
Third-Party Defendant-Respondent.

-----X

Defendant/third-party 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 August 14, 2009 (mot. seq. no. 005),

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 on or before September 7, 2010 for the November 2010 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 July 27, 2010.

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

-----x
Maryann Mignoli, etc.,

Plaintiff-Appellant,

-against-

M-3273
Index No. 116434/05

Samwel Oyugi, M.D., et al.,

Defendants-Respondents.
-----x

Plaintiff-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 August 17, 2009 (mot. seq. nos. 003, 004),

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 November 2010 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 July 27, 2010.

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

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

Respondent,

-against-

M-3327
Ind. No. 4878/07

Cristobal Verdejo,

Defendant-Appellant.
-----x

Defendant-appellant having moved for an enlargement of time in which to perfect the appeal from the judgment of the Supreme Court, New York County, rendered on or about July 2, 2008,

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 November 2010 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 July 27, 2010.

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

-----x
Janmarie Spangler Stein-Sapir,

Plaintiff-Appellant,

-against-

Leonard Roy Stein-Sapir,

Defendant-Respondent.
-----x

M-3347
Index No. 35438/71

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 August 28, 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 November 2010 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 July 27, 2010.

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

-----x
Rochelle Schechter,
Plaintiff-Respondent,

M-3339

-against-

Index No. 123520/02

UVI Holdings, Inc., et al.,
Defendants-Respondents.

UVI Holdings, LLC,
Third-Party Plaintiff-Respondent,

-against-

Index No. 590413/05

Nabil Abdullah, et al., etc.,
Third-Party Defendants-Respondents.

Nabil Abdullah, et al., etc.,
Fourth Party Plaintiffs-Respondents,

-against-

Index No. 590769/05

Centurion Insurance Company, etc.,
Fourth-Party Defendant-Appellant.

-----x
Fourth-party defendant-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 November 20, 2008 (mot. seq. no. 004),

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 December 2010 Term.

ENTER:


Clerk

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

BEFORE: Hon. Angela M. Mazzarelli,
Justice of the Appellate Division

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

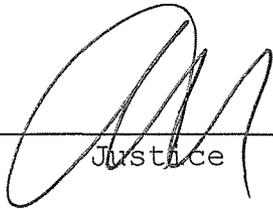
-against-

Anthony Morgan,

Defendant.
-----X

M-1940
Ind. Nos. 4895/85
4991/85
CERTIFICATE
DENYING LEAVE

I, Angela M. Mazzarelli, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, sections 450.15 and 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, Bronx County (Denis Boyle, J.), entered on or about November 25, 2008, is hereby denied.



Justice

Dated: New York, New York
, 2010

ENTERED

JUL 27 2010

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

BEFORE: Hon. Angela M. Mazzarelli,
Justice of the Appellate Division

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

M-2245
Ind. No. 2458/05

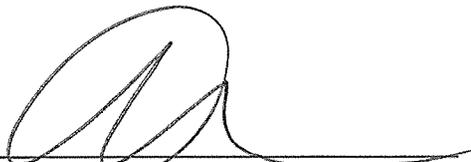
-against-

CERTIFICATE
DENYING LEAVE

Jerome Keitt,

Defendant.
-----X

I, Angela M. Mazzarelli, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, sections 450.15 and 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, New York County (Daniel Fitzgerald, J.), entered on or about January 15, 2010, is hereby denied.


Justice

Dated: New York, New York
, 2010

ENTERED

JUL 27 2010

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

BEFORE: Hon. Karla Moskowitz
Justice of the Appellate Division

-----X
In the Matter of

Natalie L.,

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

M-2395
Docket No. NN-08376/10

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

Lisette A.
Respondent-Respondent.

Jesse Diamond, Esq., Legal Aid Society
Juvenile Rights Division,
Law Guardian for the Child.

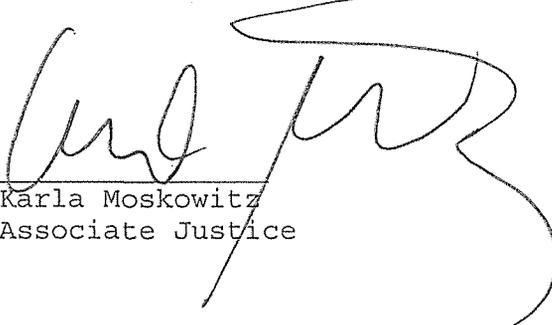
-----X

Appellant having moved for a stay of proceedings in the
above-entitled action pending hearing and determination of the
appeal taken from the order of the Family Court, Bronx County,
entered on April 27, 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 on condition that
the appeal is perfected for the November 2010 Term.

Dated: New York, New York
June 29, 2010


Karla Moskowitz
Associate Justice

Entered: JUL 27 2010

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

BEFORE: Hon. Rolando T. Acosta
Justice of the Appellate Division

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

M - 2828
Ind. No. 2216/07

-against-

CERTIFICATE
DENYING LEAVE

Omar Adames,

Defendant.

-----X

I, Rolando T. Acosta, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, sections 450.15 and 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, New York County, entered on or about March 9, 2010, is hereby denied.



Hon. Rolando T. Acosta
Associate Justice

Dated: June 28, 2010
New York, New York

ENTERED: JUL 27 2010

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

BEFORE: Hon. Rolando T. Acosta
Justice of the Appellate Division

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

M - 2837
Ind. No. 1482/89

-against-

CERTIFICATE
DENYING LEAVE

James Neal,

Defendant.

-----X

I, Rolando T. Acosta, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, sections 450.15 and 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, Bronx County, entered on or about February 16, 2010, is hereby denied.



Hon. Rolando T. Acosta
Associate Justice

Dated: June 28, 2010
New York, New York

ENTERED

JUL 27 2010

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

BEFORE: Hon. Rolando T. Acosta
Justice of the Appellate Division

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

M - 3037
Ind. No. 2733 /09

-against-

CERTIFICATE
DENYING LEAVE

Kennedy Howe,

Defendant.

-----X

I, Rolando T. Acosta, a Justice of the Appellate Division, First Judicial Department, do hereby certify that, upon application timely made by the above-named defendant for a certificate pursuant to Criminal Procedure Law, sections 450.15 and 460.15, and upon the record and proceedings herein, there is no question of law or fact presented which ought to be reviewed by the Appellate Division, First Judicial Department, and permission to appeal from the order of the Supreme Court, New York County, entered on or about May 6, 2010, is hereby denied.



Hon. Rolando T. Acosta
Associate Justice

Dated: June 28, 2010
New York, New York

ENTERED: JUL 27 2010

M-2699 (June 8, 2010)

IN THE MATTER OF MARK E. KRESSNER - A SUSPENDED ATTORNEY

Per Curiam

Respondent Mark E. Kressner was admitted to the practice of law in the State of New York by the First Judicial Department on January 26, 1976. At all times relevant to this proceeding, he has maintained an office for the practice of law within the First Judicial Department.

On May 16, 1985, this Court suspended respondent from the practice of law for three years for a violation of Judiciary Law § 479 (*see Matter of Kressner*, 108 AD2d 334 [1985], appeal dismissed 65 NY2d 999 [1985]). By an order dated September 23, 1993, this Court reinstated respondent. By an order entered February 4, 2010, we suspended respondent on an interim basis due to professional misconduct that immediately threatened the public interest (*see Matter of Kressner*, 72 AD3d 112 [2010]).

Pursuant to 22 NYCRR 603.11, an attorney who is the subject of a disciplinary proceeding may submit an affidavit of resignation to the Departmental Disciplinary Committee. On May 12, 2010, respondent submitted such an affidavit. As such, the Committee now moves for an order accepting respondent's affidavit of resignation and striking his name from the roll of attorneys.

Respondent's affidavit complies with 22 NYCRR 603.11. Respondent states that his resignation is submitted freely,

voluntarily and without coercion or duress and that he is fully aware of the implications of submitting his resignation.

Respondent acknowledges that he is unable to defend himself against the charges of professional misconduct stated within the Committee's motion and this Court's previous order. Respondent repeats the admissions he provided in his sworn testimony to the Committee, namely that he has not maintained a proper accounting ledger for his escrow account and that he placed personal funds into his IOLA account instead of his operating account to avoid its seizure by federal and state tax authorities.

Respondent further acknowledges that he is currently the subject of several inquiries by the Disciplinary Committee that stem from both sua sponte investigations and from specific complaints. Some of those complaints relate to dishonored checks issued from his escrow account and others were filed by attorneys who allege that respondent has not satisfied outstanding judgments filed against him. In addition, there are at least three other pending complaints which respondent admits he has not yet answered. The Committee states in its motion that this statement by respondent is an admission of his failure to cooperate with the Committee's investigation of these subsequently filed complaints.

Accordingly, the Committee's motion should be granted to the extent that respondent's resignation be accepted and his name be stricken from the roll of attorneys, effective nunc pro tunc to May 12, 2010.

All concur.

Order filed.

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT

JUL 27 2010

Luis A. Gonzalez, Presiding Justice,
Richard T. Andrias
David B. Saxe
David Friedman
James M. Catterson, Justices.

-----x

In the Matter of Frederick William Salo,
an attorney and counselor-at-law:

Departmental Disciplinary Committee M-5962
for the First Judicial Department, M-543
Petitioner,

Frederick William Salo,
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental
Disciplinary Committee for the First Judicial Department.
Respondent, Frederick William Salo, was admitted to the Bar
of the State of New York at a Term of the Appellate Division
of the Supreme Court for the Third Judicial Department on
March 1, 1994.

Alan W. Friedberg, Chief Counsel, Departmental
Disciplinary Committee, New York
(Stephen P. McGoldrick, of counsel), for petitioner.

Michael S. Ross, for respondent.

M-5962, M-543 (March 9, 2009)

In the Matter of Frederick William Salo, an Attorney

Per Curiam

Respondent Frederick William Salo was admitted to the practice of law in the State of New York by the Third Judicial Department on March 1, 1994. At all times relevant to this proceeding, he has maintained an office for the practice of law within the First Judicial Department.

In this proceeding, the Departmental Disciplinary Committee (DDC) seeks respondent's disbarment or, in the alternative, his suspension from the practice of law for no less than three years. The six charges at issue (two others having been withdrawn) are summarized below.

Charge 1 alleges that respondent misappropriated third-party funds from his escrow account in violation of DR 9-102(A). This charge relates to respondent's representation of a client (Jose Orellana) whose personal injury action was settled for \$198,000 in December 2001. After respondent made payments on account of the settlement to Orellana and himself out of his Chase Bank IOLA account, \$40,000 remained in the IOLA account. As respondent wrote in a subsequent letter to Orellana, he continued to hold the \$40,000 in the IOLA account pending resolution of the lien held by Reliance Insurance Company (Reliance) on the settlement proceeds based on its payment of worker's compensation benefits.

Because Reliance went into receivership, its lien was not resolved until June 1, 2005. During the period from October 15, 2002 through April 22, 2005, respondent withdrew funds from the IOLA account that caused its balance to fall below the amount of the Reliance lien, whether the lien amount is deemed to have been \$40,000 (the amount of Reliance's original claim) or, as respondent argues, \$32,000 (the reduced amount to which Reliance's successor finally agreed on April 28, 2005). The balance on deposit in the IOLA account first fell below \$32,000 on March 31, 2003, and dropped to a low of \$102.88 on April 2, 2005.

Charge 2 alleges that respondent, by intentionally converting third-party funds to his personal use as alleged in Charge 1, engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of DR 1-102(A)(4).

Charge 5 alleges that respondent commingled funds by transferring funds from his personal bank account to his IOLA account in violation of DR 9-102(A). This charge is based on respondent's transfer of \$32,000 of his personal funds to his IOLA account on or about January 12, 2004, and on a second deposit of personal funds in the amount of \$32,100 into the IOLA account on April 27, 2005. The latter deposit was the source of the funds used to pay off the Reliance lien on June 1, 2005.

Charge 6 alleges that checks drawn on respondent's IOLA

account did not contain a designation indicating that they were issued from a special bank account, thereby violating DR 9-102(B)(2).

Charge 7 alleges that, on or about November 7, 2003, respondent paid a client settlement funds by giving him a check drawn on respondent's IOLA account that was made payable to "cash," thereby violating DR 9-102(E).

Charge 8 alleges that, by engaging in the conduct underlying the above charges, respondent engaged in conduct that adversely reflects on his fitness as a lawyer in violation of DR 1-102(A)(7).

Respondent admits the factual allegations underlying the above charges, and does not contest Charges 5, 6 and 7. He does, however, dispute the contention that he acted with venal intent, and therefore does contest Charge 2, as well as Charge 1 to the extent it incorporates allegations of venal intent. He also contests Charge 8.

The primary issue before us is whether respondent's conversion of escrow funds was, in light of the post-traumatic stress disorder (PTSD) and depression from which he suffered at the time, done without venal intent. Respondent argues that, because he acted under the influence of the aforementioned psychological maladies and without venal intent, the sanction for his misconduct should be limited to a public censure.

At the hearing held before a Referee on March 28, 2007, the expert psychological/psychiatric reports submitted by both sides were in agreement that respondent suffered from PTSD at the time of the conduct at issue (December 2001 through April 2005).¹ Respondent argues that there was no intentional conversion of funds; rather, he unknowingly and inadvertently used the lien funds for his own use because at the time he suffered from severe PTSD and depression triggered by the attacks of September 11, 2001 (9/11). He further contends that he was unable to reconcile his IOLA account during the relevant time period, which was related to his practice of keeping a "cushion" of earned legal fees in his IOLA account.² Thus, he thought he was using his own money to pay personal expenses. Notably, during the period in question (2003-2005), respondent withdrew funds from his "cushion" of fees at the same rate as when he first opened the IOLA account in late 1998. Respondent also contends that he had no motive to misappropriate third-party funds, given that he

¹The report on behalf of respondent was submitted by his treating psychologist, Dr. Jill Levitt; the report on behalf of the DDC was submitted by Dr. Amy S. Hoffman, a psychiatrist. Because each report was received into evidence without objection, neither expert testified at the hearing.

²Respondent states that it was not until 2005, when he was so advised by his ethics counsel, that he became aware of the impropriety of his practice (which predated 9/11) of keeping a "cushion" of earned fees in his IOLA account. It does not appear that any of the charges before us are based on respondent's having engaged in this practice.

allegedly had sufficient funds in a brokerage account to cover all personal expenses.

In support of his contention, respondent raises a number of points about his personal background. First, as confirmed by both mental health experts, while growing up he suffered greatly under an emotionally and physically abusive father and passive mother. According to the experts, this set the stage for the onset of severe PTSD after 9/11, manifested by feelings of loss of control, anxiety, panic attacks and nightmares.

Respondent was also hampered in meeting his professional obligations in the wake of 9/11 by the location of his law office, which was 100 Church Street, in the immediate vicinity of the World Trade Center. Although he was not at his office at the time of the attack, he had only limited access to it for many months thereafter. When he was given access to the office during this period, he was escorted by the police up 18 flights of stairs, in the dark (there was no power), and he was given only a few minutes to collect files that had survived the attack. His computer, on which the electronic ledger of his IOLA account had been stored, was destroyed, as were most of his files. Moreover, he did not receive bank statements for several months due to problems with mail service.

In October 2002 (years before the DDC opened its inquiry into this matter), respondent sought psychological treatment from

the aforementioned Dr. Levitt. In her report, Dr. Levitt confirmed that respondent descended into alcohol abuse following 9/11 as a coping mechanism. The alcoholism continued until he stopped drinking completely in January 2003. During the period in question, he was not taking on any new cases, as he could barely function as an attorney. During the period from 2002 through 2005, he settled 17 cases, which was about what a busy personal injury attorney typically would accomplish in one month. As stated in her report, Dr. Levitt found that respondent experienced "extreme anxiety related to his work as a lawyer, and was even worried about such activities as opening mail and returning phone calls, for fear that he would hear more bad news and not be able to cope with it." She noted that, when respondent began treatment, he "was barely getting any work done"; that he had "stacks of unopened mail sitting on his desk that he was too anxious to open"; that it was "difficult for him to sustain concentration on any one task"; and that "[s]ometimes he would lose track of time and would spend the entire day writing one letter."

Based on her observations, Dr. Levitt diagnosed respondent as suffering from PTSD and major depressive disorder related to 9/11 and the abuse he suffered as a child. The PTSD was manifested by symptoms including intense fear and feelings of helplessness, difficulty in concentrating, avoidance,

hyper-arousal, and significant impairment in daily functioning.

As relevant to this proceeding, Dr. Levitt concluded that it was

"likely that [respondent's] PTSD symptoms interfered with his ability to focus on reconciling his attorney trust bank account. . . . Like other anxiety-producing activities, reconciling his accounts was an activity that he avoided for an extended period of time. . . . [H]is inability to work consistently on anything other than the immediate task at hand, combined with his problems with intrusive and disorganized memories that sometimes led to states of confusion, could have led to mistaken judgment and his misperception of the source of the funds in his attorney trust bank account. I further believe with a reasonable degree of scientific certainty that because of his PTSD symptoms Mr. Salo avoided reconciling his bank accounts, and had he undertaken the task of doing such reconciliations, his PTSD symptoms would have interfered with his ability to successfully complete the task."

Similarly, the DDC's expert, Dr. Hoffman, adopted Dr.

Levitt's findings and independently determined the following:

"[I]t is my opinion, to a reasonable degree of medical certainty, that Mr. Salo suffers from the results of chronic childhood physical and emotional abuse, from symptoms consistent with a depressive disorder, symptoms consistent with an anxiety disorder and with [PTSD]. I believe that at the time of the actions which are under investigation, Mr. Salo was in dire psychological condition as described . . . in Dr. Leavitt's [sic] affidavit. He appears to have been unable to function effectively. However, it is also my opinion, to a reasonable degree of medical certainty, that Mr. Salo has made significant and meaningful improvement due to his wholehearted engagement in a treatment process and that, at the present time, he is fully able to perform as an attorney."

Notwithstanding the experts' agreement that respondent suffered from PTSD at the time of his alleged misconduct, the DDC argued that several factors weighed against mitigation.

Notwithstanding his abusive upbringing, respondent was able to achieve academically and professionally before 9/11. After 9/11, he was able to negotiate the settlement of several matters (including the Orellana matter underlying Charges 1 and 2) and was able to prepare proper closing statements and to disburse the correct amounts of proceeds in each matter. It was only the proceeds of the Orellana settlement subject to the Reliance lien that respondent failed to safeguard properly; such funds were available for misappropriation until 2005 because of the delay in resolution of the lien due to Reliance's insolvency and pending liquidation. Further, respondent prepared and filed his own personal income tax forms and renewed his biennial attorney registration for the years 2002 through 2005.

The Referee found, based on the expert reports of Drs. Levitt and Hoffman, that respondent's PTSD played a substantial role in bringing about the misconduct underlying the most serious charges (i.e., those concerning the misappropriation of the Reliance lien funds from the Orellana settlement proceeds). However, he found that respondent, despite his somewhat diminished capacity, still was "aware on some cognitive level that he was using third party funds to pay for personal expenses." The Referee noted that the experts did not

"specifically address the question as to why Respondent from August 23, 2003 until May 2005 did not, or could not, realize from observing his monthly statements that the amount necessary for the Reliance lien fund was not

in the account and at times well below the amount which was required. This is especially so since Respondent, during the years 2003-2005, was able to settle other actions, place the proceeds in the IOLA account and properly disburse the proceeds. . . . I do not credit Respondent's testimony that it was not until April 2005 that he was feeling well enough to be able to reconcile his IOLA account and only then first realized that the Reliance lien funds were invaded.

"My difficulty with reaching the conclusion which Respondent advances, i.e., that he was unaware due to severe PTSD that he was using third party funds to pay personal expenses since he believed that he had a 'cushion' of earned legal fees, also stems from Respondent's actions both before and after 9/11. Upon the opening of the IOLA account in 1998 Respondent failed to use the special designation legend of escrow funds required by the rules. Prior to 9/11, Respondent readily admits to commingling his earned fees to provide a 'cushion' which is also a violation of the escrow account rules. Following 9/11, Respondent was able to negotiate a settlement of the Orellana action; to disburse payment to his client; to pay himself his fee of \$66,000.00; and to hold back \$40,000.00 to satisfy the Reliance lien. Respondent also performed other tasks, maybe not as well as earlier but nonetheless sufficiently enough, during the time the Reliance proceeds were invaded by him to pay personal expenses.

". . . I believe that the seed for the Reliance lien fee misappropriation was sown from the day in 1998 when Respondent opened the IOLA account with the improprieties concerning the account admitted to as noted above, especially the concept of a 'cushion' representing the legal fees. After 9/11 and the onset of severe PTSD, and resort to alcohol to cope with its effects, Respondent was still able to perform many tasks as noted above, and the symptoms abated over the years but Respondent continued to invade the Reliance lien funds in 2004-2005.

"Accordingly, I find that the DDC has established by a preponderance of the evidence that Respondent knowingly converted third party funds for his own use at various times between 2003 and 2005 and . . . therefore I sustain all of the charges" (record

citations and emphases omitted).

The Referee recommended, by reason of the "extremely unusual mitigating circumstances" of respondent's psychological condition at the relevant time, that he be suspended for only one year, rather than disbarred or suspended for at least three years, as sought by the DDC.

The Hearing Panel, over a dissent by one member, adopted the Referee's determinations and recommendation. The dissenting Panel member recommended that Charges 2 and 8 be dismissed, that Charges 1, 5, 6, and 7 be sustained, and that the sanction be limited to a public censure.

The DDC now moves for an order pursuant to 22 NYCRR 603.4(d) and 605.15(e)(2) confirming the reports of the Referee and Hearing Panel to the extent that they sustained all the charges against respondent, disaffirming said reports to the extent that they found a causal connection with respondent's PTSD and his misconduct and that the PTSD constituted extremely unusual mitigating evidence warranting a one-year suspension and, instead, disbarring respondent. In the alternative, the Committee seeks a suspension for a period of no less than three years. By cross motion, respondent seeks an order denying the Committee's motion and imposing the sanction of public censure. We grant the DDC's motion to the extent of confirming the determinations of the Referee and the Hearing Panel insofar as

they sustained Charges 1, 5, 6, 7 and 8, deny respondent's cross motion, and impose the sanction of a one-year suspension from the practice of law.

As noted, respondent does not contest Charges 5, 6 and 7, and such charges are sustained. With regard to Charge 1, concerning the misappropriation of third-party funds, respondent does not deny that he invaded (whether intentionally or not) proceeds of the Orellana settlement in his IOLA account subject to the Reliance lien; accordingly, Charge 1 is also sustained. Charge 2 -- alleging that respondent's invasion of funds subject to the Reliance lien constituted conduct involving dishonesty, fraud, deceit or misrepresentation in violation of DR 1-102(A)(4) -- cannot be resolved so simply. In order to find an intentional conversion violating DR 1-102(A)(4), a showing of intent to defraud, deceive or misrepresent is required (*see Matter of Altomerianos*, 160 AD2d 96 [1990]). Notwithstanding the Referee's careful analysis of the evidence, to which the majority of the Hearing Panel deferred, it cannot be ignored that the mental health experts for both sides were in agreement that respondent invaded the Reliance lien funds inadvertently, without specifically intending to misappropriate third-party funds, as the direct result of the PTSD from which he suffered at the time. Again, it was the view of both experts that respondent, by reason of his PTSD (which caused him to stop opening mail, including

bank statements), lost track of the fact that the balance remaining in his IOLA account was subject to the Reliance lien on the proceeds of the Orellana settlement, and believed that he was drawing on the "cushion" of earned legal fees it was his practice to keep in the account.³ Given the uncontroverted expert evidence, we find that it has not been proven by a preponderance of the evidence that respondent had the venal intent required for a finding that he willfully and knowingly converted third-party funds. In coming to this conclusion, we also find it significant that respondent had no evident motive to convert third-party funds (since it is uncontroverted that he had sufficient funds of his own to meet his personal expenses); that no other instances of conversion, either before or since, have been alleged; and that neither the client nor the lien-holder was harmed by respondent's conduct. Accordingly, the DDC's motion is denied, and the findings of the Referee and Hearing Panel are modified, to the extent of dismissing Charge 2.

Charge 8, which alleges that respondent's conduct underlying the other sustained charges constituted conduct adversely reflecting on his fitness to practice law in violation of DR 1-102(A)(7), is sustained.

³We emphasize that respondent's practice of keeping a "cushion" of earned fees in his IOLA account was by no means proper. The practice was not, however, venal in itself.

As to the matter of the sanction to be imposed, there are cases in which suspension from the practice of law for a substantial period of time is the appropriate sanction for even nonvenal misappropriation of funds. For example, in *Matter of Tepper*, (286 AD2d 79 [2001]), we imposed a two-year suspension for misconduct including "careless and nonvenal invasions of client funds for personal or business uses" (*id.* at 81) where, although "there was no evidence of venality and no losses were suffered by any of the parties affected by respondent's actions, nevertheless respondent also demonstrated flagrant irresponsibility in his bookkeeping and check writing" (*id.* at 80; see also *Matter of Weingrad*, 196 AD2d 300 [1994], *lv denied* 83 NY2d 756 [1994], *cert denied* 513 US 877 [1994] [one-year suspension for nonvenal conversion of client funds]; *Matter of Altomerianos*, *supra* [two-year suspension for nonvenal conversion]). Under the particular circumstances of this case, we find that the appropriate sanction is a one-year suspension from the practice of law.

Accordingly, the motion of the DDC is granted to the extent of sustaining Charges 1, 5, 6, 7 and 8, and to the extent of suspending respondent from the practice of law for a period of one year, effective 30 days after the date hereof and until further order of this Court, the motion is otherwise denied, and respondent's cross motion for imposition of the sanction of public censure is denied.

All concur.

Order filed

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT

JUL 27 2010

David Friedman, Justice Presiding,
Eugene Nardelli
Karla Moskowitz
Helen E. Freedman
Sallie Manzanet-Daniels, Justices.

-----x

In the Matter of Hidetoshi Cho,
an attorney and counselor-at-law:

Departmental Disciplinary Committee M-1747
for the First Judicial Department,
Petitioner,

Hidetoshi Cho,
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental
Disciplinary Committee for the First Judicial Department.
Respondent, Hidetoshi Cho, was admitted to the Bar of the State
of New York at a Term of the Appellate Division of the Supreme
Court for the First Judicial Department on September 21, 1992.

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

No appearance for respondent.

M-1747 - May 14, 2010

IN THE MATTER OF HIDETOSHI CHO, AN ATTORNEY

PER CURIAM

Respondent Hidetoshi Cho¹ was admitted to the practice of law in the State of New York by the First Judicial Department on September 21, 1992. By a 2007 order of removal, respondent was deported to Japan, where he maintains an office address registered with the Office of Court Administration.²

In 2005, respondent was charged with six felony counts in a superseding indictment filed in the Southern District of New York: one count of conspiracy to defraud the United States (18 USC § 371), two counts of making false statements on a loan application (18 USC § 1001 and § 1002), two counts of making false statements to the Small Business Administration (15 USC § 645[a]), and one count of mail fraud (18 USC § 1341 and § 1342). All the charges arose out of submissions by respondent and his co-defendant³ to the SBA, the American Red Cross, Safe Horizon, Inc., and other agencies and charities, falsely claiming to have suffered damage to property and loss of business as a result of

¹Although served on April 1, 2010 by regular mail to his office address and last known home address in Japan, respondent has not submitted a response in this matter.

²As the admitting Department, this Court retains continuing disciplinary jurisdiction over respondent (22 NYCRR 603.1[a]).

³The co-defendant was charged in the same superseding indictment with 11 felony counts.

the World Trade Center attacks of September 11, 2001.

On February 3, 2006, respondent pleaded guilty to counts 1, 2, 3 and 11.⁴ On May 3, 2006, respondent was sentenced to a prison term of two years, supervised release of two years, and restitution in the amount of \$2,500. By order dated May 20, 2007, respondent was ordered removed to Japan.

By petition dated March 29, 2010, the Departmental Disciplinary Committee seeks an order striking respondent's name from the roll of attorneys pursuant to Judiciary Law §§ 90(4)(a) and (b) on the ground that he was automatically disbarred as a result of his conviction of Federal felonies that would constitute felonies if committed under New York law. In the alternative, the Committee seeks an order determining that the crimes of which respondent has been convicted constitute "serious crimes" within the meaning of Judiciary Law § 90(4)(d), immediately suspending him pursuant to Judiciary Law § 90(4)(f), and referring the issue for a hearing on sanction.

A conviction of a felony under another jurisdiction's laws does not trigger automatic disbarment unless the offense would constitute a felony under New York Penal Law (Judiciary Law § 90(4)(e); *Matter of Kim*, 209 AD2d 127 [1995]). The foreign

⁴Respondent failed to notify the Committee of his conviction, as required to do by 22 NYCRR 603.12(f), or to file a record of his conviction with this Court, as mandated by Judiciary Law § 90(4)(c).

felony need not be a "mirror image" of the New York felony, but must be "essentially similar" (*Matter of Margiotta*, 60 NY2d 147, 150 (1983); *Matter of Shubov*, 25 AD3d 33 [2005]). Even where the elements of the foreign jurisdiction's statute do not directly correspond to a New York felony, essential similarity may be established by admissions made under oath during a plea allocution, considered in conjunction with the indictment (*Matter of Amsterdam*, 26 AD3d 94 [2005]).

Counts 2 and 3 (both charging 18 USC § 1001 and § 1002) of the Federal indictment, to which respondent pleaded guilty, charged that respondent had knowingly made "materially false, fictitious, and fraudulent statements and entries" in a business loan application and other documents and submitted them to SBA. Respondent expressly admitted at his plea that he had "made false and fraudulent statements intending to get money from the Small Business Administration and the American Red Cross and from other agencies." He also admitted that he had succeeded in obtaining \$2,500 from Safe Horizon, Inc.

18 USC § 1001 provides:

"whoever, in any matter within the jurisdiction of the ... Government of the United States, knowingly and willfully ... makes any materially false, fictitious, or fraudulent statement or representation [or] makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry" is guilty of a felony.

18 USC 2002 provides:

"Whoever, knowingly and with intent to defraud the United States, or any agency thereof, possesses any false, altered, forged, or counterfeited writing or document for the purpose of enabling another to obtain from the United States, or from any agency, officer or agent thereof, any sum of money" is guilty of a felony.

New York Penal Law § 175.35, offering a false instrument for filing in the first degree, declares it a Class E felony when a person:

"knowing that a written instrument contains a false statement or false information, and with intent to defraud the state or any political subdivision, public authority or public benefit corporation of the state, [] offers or presents it to a public office, public servant, public authority or public benefit corporation with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office, public servant, public authority or public benefit corporation."

This Court has repeatedly held that a conviction under 18 USC § 1001 and § 1002 is analogous to Penal Law § 175.35 (*Matter of Ramirez*, 7 AD3d 52 [2004]; *Matter of Gautam*, 231 AD2d 335 [1997]; *Matter of Pandit*, 230 AD2d 160 [1997]).

In *Matter of Roth* (49 AD3d 144, 146 [2008]), this Court did state that the "federal felony of making a false statement does not have a direct felony analog under New York law." However, only 18 USC § 1001 was charged there, and only oral statements, not written ones or filed documents, were involved. Moreover, this Court proceeded to examine the plea allocution and indictment to find that the attorney had committed conduct

constituting the New York felony of scheme to defraud in the first degree (Penal Law § 190.65[1][b]), by engaging in a scheme to defraud and obtain in excess of \$1,000.

In the instant matter, respondent was convicted of two counts that each charged violation of both 18 USC § 1001 and § 1002, based on his offering false documents for filing with a governmental agency. Thus, his conviction is analogous to Penal Law § 175.35, offering a false instrument for filing in the first degree (see *Ramirez*, 7 AD3d 52; *Gautam*, 231 AD2d 335; *Pandit*, 230 AD2d 160). In any event, a reading of the conviction together with his plea allocution establishes his commission of that New York felony (see *Matter of Stewart*, 42 AD3d 59 [2007] [convicted under 18 USC § 1001]; *Amsterdam*, 26 AD3d 94 [convicted under 18 USC § 371, conspiracy to defraud]; *Matter of Fier*, 276 AD2d 17 [2000] [convicted under 18 USC § 1001]).

Although this Court has previously determined that the other Federal statutes under which respondent was convicted (18 USC § 371 [conspiracy to defraud] and 18 USC § 1341 and § 1342 [mail fraud]) do not have a New York felony counterpart, it has found in appropriate circumstance, plea allocutions to those counts sufficient to establish the elements of the New York felony of scheme to defraud in the first degree (Penal Law § 190.65[1][b]); *Matter of Fishman*, 61 AD3d 159 [2009] [18 USC § 1341]; *Matter of Treffinger*, 11 AD3d 185 [2004] [18 USC § 371 and § 1341], 1v

denied 4 NY3d 703 [2005]; *Matter of Harnisch*, 7 AD3d 58 [2004] [18 USC § 371 and § 1341]; see *Matter of Mercado*, 1 AD3d 54 [2003] [18 USC § 371 and § 1343] [wire fraud]).

Respondent admitted at his plea that he had "knowingly and willfully participated in" a "scheme or artifice to defraud and to obtain money or property by materially false representations" from SBA, the American Red Cross, Safe Horizon, Inc., and other agencies," pursuant to which he succeeded in obtaining \$2,500 from Safe Horizon, Inc. Those admissions satisfied the requirements of Penal Law § 190.65(1)(b), which states that a person is guilty of scheme to defraud in the first degree when he:

"engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud more than one person or to obtain property from more than one person by false or fraudulent pretenses, representations or promises, and so obtains property with a value in excess of one thousand dollars from one or more such persons."

(See *Fishman*, 61 AD3d 159; *Roth*, 49 AD3d 144; *Treffinger*, 11 AD3d 185; *Harnisch*, 7 AD3d 58; *Mercado*, 1 AD3d 54).

Accordingly, the Committee's motion to strike respondent's name from the roll of attorneys and counselors-at-law pursuant to Judiciary Law § 90(4)(a) and (b) should be granted, and respondent's name stricken, nunc pro tunc to February 3, 2006, the date of his convictions.

All concur.

Order filed.

PM ORDERS

ENTERED

JULY 20, 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 July 20, 2010.

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

-----x
June Slates,

Plaintiff-Respondent,

-against-

New York City Housing Authority,
Defendant-Appellant-Respondent,

M-3391

Index No. 118382/06

The City of New York,
Defendant,

-and-

Stealth Contracting, Inc.,
Defendant-Respondent-Appellant.

-----x
An appeal and cross appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about March 15, 2010 (mot. seq. nos. 003, 004),

And defendant-appellant New York City Housing Authority having moved for a stay of trial pending hearing and determination of their 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 stay of trial is granted. The attention of the parties is directed to Rule 600.11(d) of this Court with respect to a joint record and costs thereof.

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 July 20, 2010.

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

-----X
Rafael Rodriguez, a shareholder of
EB 100 Realty Corp., suing in the
right of EB 110 Realty Corp., and
Rafael Rodriguez, individually,
Plaintiff-Respondent,

M-3307
Index No. 116200/05

-against-

Dennis Estevez, et al.,
Defendants-Appellants.

Arthur J. Kremer,
Non-Party Receiver.

-----X
(And another action)

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about April 23, 2010,

And non-party receiver, Arthur J. Kremer, having moved for a preference in the hearing of the aforesaid appeal, and for an order directing defendants-appellants to post an undertaking pending hearing and determination of the aforesaid 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 directing defendants to perfect their appeal on or before September 7, 2010 for the November 2010 Term. So much of the motion which seeks an order directing the posting of an undertaking 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 July 20, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

-----X

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

- - - - -

Arelis Carmen S.,
Petitioner-Respondent,

M-2928

Docket Nos. V-03654-99/06G
V-03655-99/06

-against-

Daniel H. (Father),
Respondent-Appellant.

- - - - -

Steven N. Feinman, Esq.,
Law Guardian for the Children,
Arelis H. and Daniel H.

-----X

An appeal having been taken by respondent-appellant father from the order of the Family Court, New York County, entered on or about July 13, 2009,

And Jeffrey Rosenbluth, Esq., law guardian for the subject children, Arelis and Daniel H., 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 movant 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, NY 10601, Tel. No. 914-949-8214 as law guardian for purposes of responding to the appeal.

ENTER:



Clerk.

PM ORDERS

ENTERED

JULY 27, 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 July 27, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

-----X
In the Matter of a Family Offense
Proceeding Under Article 8 of the
Family Court Act.

- - - - -
Gina C.,
Petitioner-Respondent,

M-2929
Docket Nos. O-28812/07
V-18627/06

-against-

Michael C.,
Respondent-Appellant.

- - - - -
Elisa Barnes, Esq.,
Law Guardian for the Child.

-----X
An appeal having been taken from the order of the Family Court, Bronx County, entered on or about October 30, 2009,

And Jessica Brown, Esq., law guardian for the child, having moved for an order to be relieved as law guardian and to substitute other counsel to respond to 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 to the extent of relieving movant as law guardian and substituting, pursuant to Article 18b of the County Law and Sec. 1120 of the Family Court Act, Elisa Barnes, Esq., 350 Broadway, Suite 1100, New York, NY 10013, Telephone No. (212) 693-2330, as law guardian for purposes of responding to the appeal. The motion is otherwise denied. (See M-2785 and M-3043, decided simultaneously herewith.)

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 July 27, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

-----X
In the Matter of a Family Offense
Proceeding Under Article 8 of the
Family Court Act.

Gina C.,
Petitioner-Respondent,

M-3043
Docket Nos. O-28812/07
V-18627/06

-against-

Michael C.,
Respondent-Appellant.

Elisa Barnes, Esq.,
Law Guardian for the Child.

-----X
Petitioner-respondent mother having moved for leave to respond, as a poor person, to the appeal from the order of the Family Court, Bronx County, entered on or about October 30, 2009, and for the 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 (1) permitting movant to respond to the appeal upon a reproduced respondent's brief, on condition that one copy of such brief be served upon the attorneys for respondent-appellant and 10 copies thereof are to be filed with this Court, and (2) assigning, pursuant to Section 18b of the County Law and § 1120 of the Family Court Act, Yisroel Schulman, Esq., New York Legal Assistance Group, 450 West 33rd Street, New York, NY 10001, Telephone No. (212) 613-5086, as counsel for purposes of responding to the appeal. (See M-2785 and M-2929, decided simultaneously herewith.)

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 July 27, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

-----X
In the Matter of a Family Offense
Proceeding Under Article 8 of the
Family Court Act.

Gina C.,
Petitioner-Respondent,

-against-

M-2785
Docket Nos. O-28812/07
V-18627/06

Michael C.,
Respondent-Appellant.

Elisa Barnes, Esq.,
Law Guardian for the Child.

-----X
An appeal having been taken from the order of the Family Court, Bronx County, entered on or about October 30, 2009,

And respondent-appellant father having moved, inter alia, for the vacatur of the aforesaid order of protection,

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. (See M-2929 and M-3043, decided simultaneously herewith.)

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 July 27, 2010.

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

-----X

RSB Bedford Associates LLC,

Plaintiff-Respondent,

-against-

M-3445

Index No. 602303/09

Ricky's Williamsburg, Inc., doing
business as Ricky's NYC and Ricky's
Holdings, Inc.,

Defendant-Appellant.

-----X

Appeals having been taken from orders of the Supreme Court, New York County, entered on or about April 14, 2010 (mot. seq. no. 001), on or about June 23, 2010 (mot. seq. no. 003) and on or about June 18, 2010 (mot. seq. no. 004),

And defendant-appellant having moved for a stay of a Special Referee's hearing pending hearing and determination of the aforesaid appeals,

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 July 27, 2010.

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

-----X
Mirna Samuel and Richard Samuel,
Plaintiffs-Appellants,

-against-

M-3360

Index No. 570418/09

Macy's Northeast, Inc.,
Defendant-Respondent.

-----X

Plaintiffs having moved for an enlargement of time in which to move for leave to appeal to this Court from the order of the Appellate Term entered in the office of the Clerk of the Supreme Court, New York County, on or about February 25, 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 and plaintiffs are directed to make their motion for the aforesaid relief returnable on August 23, 2010. (See CPLR 2214, 2103(b)(2), 22 NYCRR 600.2)

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 July 27, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
James M. McGuire
Rolando T. Acosta, Justices.

-----X
Paul Garcia,
Plaintiff-Respondent,

-against-

M-3072
Index No. 106895/06

Berns DeKajlo & Castro, DeKajlo Law
Offices, Lloyd M. Berns, Esq.,
Eugene Castro, Esq., Oleh N. DeKajlo,
Esq., Harry Issler and Harry Issler,
PLLC,
Defendants-Appellants.

-----X

Defendants-appellants Harry Issler and Harry Issler, PLLC, having moved for a stay of trial pending hearing and determination of the appeal taken from the order of the Supreme Court, New York County, entered on or about June 3, 2010 (mot. seq. no. 003),

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 July 27, 2010.

Present: Hon. Peter Tom, Justice Presiding,
Angela M. Mazzarelli
Eugene Nardelli
Rolando T. Acosta
Diane T. Renwick, Justices.

-----X
In the Matter of

Christopher R.; Crieg B. **M-2171**
and Curtis B., Jr., **M-2616**

Dependent 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,

Docket Nos. NN12698/06
NN12699/06
NN12700/06

Lecrieg B.-B.,
Respondent-Appellant.

Randall Carmel, Esq.,
Law Guardian for the Children.

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

Docket Nos. V13766/06
V13767/06
V13768/06

Curtis B., Sr.,
Petitioner-Respondent,

-against-

Lecrieg B.-B.,
Respondent-Appellant,

Administration for Children's
Services,
Respondent.

Randall Carmel, Esq.,
Law Guardian for the Children.

-----X

An appeal having been taken from the orders of the Family Court, New York County, both entered on or about January 15, 2009,

And an order of this Court having been entered on April 1, 2010 (M-1084), inter alia, assigning Stephanie Rancer, Esq., as law guardian for the children, and striking respondent's appeal from this Court's calendar, without prejudice to reinstatement upon certain conditions,

And respondent mother having moved for reinstatement of the aforesaid appeal to this Court's calendar and for a preference in the hearing of said appeal (M-2171),

And Stephanie Rancer, Esq., assigned law guardian for the children, having moved to be relieved as law guardian and to substitute other counsel to respond to the appeal (M-2616),

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

Ordered that assigned law guardian's motion is granted to the extent of relieving Stephanie Rancer, Esq., as law guardian and substituting, pursuant to Article 18b of the County Law and Sec. 1120 of the Family Court Act, Randall Carmel, Esq., 53 Jackson Avenue, Syosset, NY 11791, Telephone No. (603) 313-1951, as law guardian for purposes of responding to the appeal (M-2616), and it is further

Ordered that respondent mother's motion, to the extent it seeks reinstatement of her appeal to this Court's calendar, is granted on condition that she serves a copy of her brief upon the Law Guardian, Randall Carmel, Esq., 53 Jackson Avenue, Syosset, NY 11791, and attorney Mark Legere, 350 Broadway, 10th Floor, New York, NY 10013 within 20 days of the date of entry hereof for the November 2010 Term. Upon failure to so serve the brief, respondent(s) may move on notice to dismiss the appeal (M-2171).

ENTER:

A handwritten signature in black ink that reads "David Apolony". The signature is written in a cursive, flowing style.

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 July 27, 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 Accounts of Separate trusts Created Under Agreements dated September 16, 1927 and October 5, 1927, between Elizabeth L. de Sanchez, as Grantor, and Central Union Trust Company of New York, as Trustee, for the benefit of Maria Sanchez de Lamar and Emilio Sanchez Laurent, et al.

M-3275

SURROGATE'S COURT
File No. 3187/01

- - - - -

In the Matter of the Accounts of Separate trusts Created Under Agreements dated September 16, 1927 and October 5, 1927, between Elizabeth L. de Sanchez, as Grantor, and JP Morgan Chase Bank (Successor to Central Union Trust Company of New York by merger and change of name), as Trustee, for the benefit of Maria Sanchez de Lamar and Emilio Sanchez Laurent, et al.

SUPREME COURT
Index No. 402498/09

- - - - -

Pedro Arellano Lamar and Adolfo Arellano Lamar,
Appellants,

Trustee, JP Morgan Chase Bank (Successor to Central Union Trust Company of New York by merger and change of name),
Respondents.

-----x

Separate appeals having been taken to this Court from the order of the Surrogate's Court, New York County, entered on or about August 27, 2009, and from the order of the Supreme Court, New York County, entered on or about March 25, 2010,

And appellants having moved for consolidation of the aforesaid appeals, and for expedited hearing of the appeals,

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 the consolidated appeal(s) are deemed perfected for the October 2010 Term.

ENTER:

A handwritten signature in black ink that reads "David Apolony". The signature is written in a cursive, flowing style.

Clerk.