

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 March 9, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
David B. Saxe
Karla Moskowitz
Sheila Abdus-Salaam
Nelson S. Román, Justices.

-----X
In the Matter of

Jonathan Serge A. (B12855/07) M-178
Isiah Steven A. (B12853/07) M-180
and Jason Kevin A., (B12854/07) M-188

Dependent Children under 18 Years
of Age Pursuant to §384-b of the Social Services Law of the State
of New York. Docket Nos. B12853/07
B12854/07
B12855/07

New Alternatives for Children, Inc.,
et al.,
Petitioners-Respondents,

Anne Elizabeth P. L.,
Respondent-Appellant.

Dennis G. Corr, Esq.,
Law Guardian for the Children.
-----X

Respondent-appellant mother having moved by separate motions for leave to prosecute, as a poor person, appeals from orders of the Family Court, Bronx County, all entered on or about December 14, 2009, and for assignment of counsel, a free copy of the transcripts, and related relief,

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 (1) assigning, pursuant to Article 18b of the County Law and §1120 of the Family Court Act, Ira M. Pesserilo, Esq., 110 Wall Street, New York, NY 10005, Telephone No. (917) 499-3669, as

March 9, 2010

counsel for purposes of prosecuting all of respondent's appeals; (2) directing the Clerk of said Family Court to have transcribed the minutes of the proceedings held therein, for inclusion in the record(s) 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(s) from the Family Court to this Court. The Clerk of the Family Court shall transfer the record(s) upon receipt of this order and; (4) directing appellant to perfect the appeals 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 March 9, 2010.

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

-----X
BRT Realty Trust and TRB Comberland
LLC,
Plaintiffs-Respondents,

-against-

M-644X
Index No. 602566/08

AHI Agency,
Defendant-Appellant.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about June 26, 2009 (mot. seq. no. 002),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" February 4, 2010, and due deliberation having been had thereon,

It is ordered that the appeal is withdrawn in accordance with the aforesaid stipulation.

ENTER:


Clerk.

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

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

-----X
Parkchester Preservation Company,
L.P.,
Plaintiff-Appellant,

-against-

Frederick Abston,
Defendant-Respondent.

M-685X
Index No. 106074/08

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about August 12, 2009 (mot. seq. no. 001),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" February 9, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk.

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

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

-----X
Robert Blanar and Anna Blanarova,
Plaintiffs-Respondents,

-against-

M-686X
Index No. 113871/06

1095 Avenue of the Americas
Condominium, NY-1095 Avenue of the
Americas, L.L.C., Equity Office
Management, L.L.C. and Tishman
Interiors Corporation,
Defendants-Appellants.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about October 9, 2009 (mot. seq. no. 004),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" February 8, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk.

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

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

-----X
Deutsche Bank Trust Company Americas,
Plaintiff-Respondent,

-against-

M-726X
Index No. 602416/09

Silverman Partners, L.P. Harvey
Silverman and Karen Silverman,
Defendants-Appellants.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, entered on or about October 27, 2009,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" February 10, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk.

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

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

-----X
Sheila Morris,
Plaintiff-Respondent,

-against-

M-727X
Index No. 21639/06

Virginia Williams, Melody Williams,
and "John" or "Jane Doe",
Defendants-Appellants,

Mayra Valentin,
Defendant-Appellant.

-----X

Appeals having been taken from an order of the Supreme Court, Bronx County, entered on or about August 24, 2009 (mot. seq. no. 001),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" February 10, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk.

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

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

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

-against-

M-710
Ind. No. 4511/07

Joseph Gonzalez,
Defendant-Respondent.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about August 19, 2009,

Now, upon reading and filing the stipulation of the parties hereto, dated February 9, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk

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

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

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

-against-

M-711
Ind. No. 4511/07

Robert Johnson,
Defendant-Respondent.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about August 19, 2009,

Now, upon reading and filing the stipulation of the parties hereto, dated February 9, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk.

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

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

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

-against-

M-712
Ind. No. 3902/09

Maureen Hynes,
Defendant-Respondent.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about November 17, 2009,

Now, upon reading and filing the stipulation of the parties hereto, dated February 9, 2010, and due deliberation having been had thereon,

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

ENTER:


clerk.

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

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

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

-against-

M-713
Ind. No. 3693/06

Charles Montgomery,
Defendant-Respondent.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about July 6, 2007,

Now, upon reading and filing the stipulation of the parties hereto, dated February 9, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk.

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

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

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

-against-

M-714
Ind. No. 743/07

John Anderson,
Defendant-Respondent.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about May 14, 2007,

Now, upon reading and filing the stipulation of the parties hereto, dated February 9, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk.

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

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

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

-against-

M-830
Index No. 5812/07

Jeffrey Nelson,
Defendant-Appellant.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about August 6, 2008,

Now, upon reading and filing the stipulation of the parties hereto, dated February 8, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk.

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

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

-----X
Diana Blatt,
Plaintiff-Respondent,

-against-

M-832
Index No. 104986/06

Hillman Housing Corporation and
Century Elevator Maintenance
Corporation,
Defendants-Appellants.

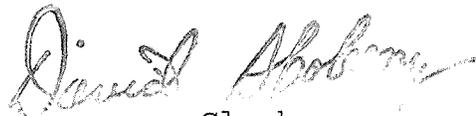
-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about July 2, 2009 (mot. seq. no. 001),

Now, upon reading and filing the stipulation of the parties hereto, filed February 16, 2010, and due deliberation having been had thereon,

It is ordered that the appeal, previously perfected for the December 2009 Term, is withdrawn in accordance with the aforesaid stipulation.

ENTER:


Clerk.

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

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

-----X
Phillip Tassi,
Plaintiff-Respondent,

-against-

Marriott International, Inc., doing
business as Courtyard By Marriott,
URGO Hotel Management, LLC., doing
business as Courtyard By Marriott,
Courtyard By Marriott Limited Partners
doing business as Courtyard By Marriott,
Courtyard By Marriott II Limited Partnership
doing business as Courtyard By Marriott
and Sayville Browning Properties, Inc.,
doing business as Courtyard By Marriott,
Defendants-Respondents,

M-811
Index No. 113505/06

-and-

Twin Forks Concrete, Inc.,
Defendant-Appellant,

-and-

Land Design Associates, P.C.,
Defendants.

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

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about October 8, 2009 (mot. seq. no. 004),

Now, upon reading and filing the stipulation of the parties hereto, filed February 16, 2010, and due deliberation having been had thereon,

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

ENTER:


Clerk.

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

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

-----X
Luis Barros,
Plaintiff-Respondent,

-against-

Cappelli Enterprises, Inc., George
A. Fuller Construction Management,
Inc. and HRH Construction, LLC,
Defendants,

-and-

New Roc Parcel 1A, LLC and
George A. Fuller, Company, Inc.,
Defendants-Appellants.

M-672
Index No. 14727/06

-----X
Cappelli Enterprises Inc., New Roc
Parcel 1A, LLC, George A. Fuller
Company, Inc., George A. Fuller
Construction Management, Inc. and
HRH Construction, LLC,
Third-Party Plaintiffs,

-against-

Roger & Sons Concrete, Inc.,
Third-Party Defendant-Appellant.

-----X

Appeals having been taken from an order of the Supreme Court, Bronx County, entered on or about June 29, 2009,

Now, after pre-argument conference and upon reading and filing the stipulations of the parties hereto, dated January 13, 2010 and February 5, 2010, respectively, and due deliberation having been had thereon,

It is ordered that the appeals, previously perfected for the March 2010 Term, are withdrawn in accordance with the aforesaid stipulations.

ENTER:

David Spokony
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 March 9, 2010.

PRESENT - Hon. Luis A. Gonzalez, Presiding Justice,
Angela M. Mazzarelli
David B. Saxe
John W. Sweeny, Jr.
Dianne T. Renwick, Justices.

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

-against-

Alexis Ampudia,
Defendant.

M-5603
Ind. Nos. 2147/07
3301/08

-----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 September 26, 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 denied. (CPL 460.30 subd. 1).

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 March 9, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,
Karla Moskowitz
Dianne T. Renwick
Leland G. DeGrasse
Sallie Manzanet-Daniels, Justices.

-----X
In the Matter of

Angelic Marie L., also known as
Angelic L.; and Jovani Francisco
Ricardo L., also known as Jovani L.,

M-239
Docket Nos. B25876/04
B25879/04

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

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

Edward L.,
Respondent-Appellant.

- - - - -
Samuel Dulberg, Esq.,
Law Guardian for the Children.

-----X
Petitioner-respondent Catholic Guardian Society & Home Bureau having moved to dismiss the appeal taken from the orders of the Family Court, Bronx County, entered on or about August 6, 2007,

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 appeal is dismissed.

ENTER:

David Apolony
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 March 9, 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,

Appellant,

-against-

M-5789A
Ind. No. 5045/00
5399/00

.Raheem Taylor,

Defendant-Respondent.
-----X

Defendant-respondent having moved for leave to respond, as a poor person, to the People's appeal from an order of resentence of the Supreme Court, Bronx County, entered on or about December 10, 2009, and for assignment of counsel,

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

It is ordered that the motion is granted to the extent of (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 attorney for the People and 10 copies thereof are filed with this Court, and (2) assigning, 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 counsel for purposes of responding to the appeal.

It is further ordered that the appeal is adjourned to the June 2010 Term. The order of this Court entered on January 28, 2010 (M-5789) is hereby recalled and vacated.

ENTER:


Clerk.

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

PRESENT: Hon. Peter Tom, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Karla Moskowitz
Leland G. DeGrasse, Justices.

-----X
Landau, P.C., formerly known as
Morris J. Eisen, P.C.,
Plaintiff-Respondent,

-and-

Morris J. Eisen, individually and as
assignee of the assets of Morris J. Eisen,
P.C. and Morris J. Eisen, as Indemnitor
of Morris J. Eisen, P.C.,
Plaintiffs,

-against-

M-656
Index No. 601131/07

Oliveri & Schwartz, P.C.,
Defendant-Appellant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about March 16, 2009 (mot. seq. no. 003), said appeal having been perfected for the January 2010 Term,

And plaintiff-respondent having moved to enlarge the record on appeal to include a certain affirmation dated October 7, 2002 and the transcript of certain testimony dated September 30, 2004,

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 March 9, 2010.

PRESENT - Hon. Peter Tom, Justice Presiding,
John W. Sweeny, Jr.
Karla Moskowitz
Rolando T. Acosta
Sheila Abdus-Salaam, Justices.

-----X
In re Lutgarda Hernandez,
Petitioner,

-against-

Department of Housing Preservation and
Development,
Respondent.

M-5851
M-240
Index No. 405628/07

-----X

Petitioner having moved for reargument of the decision and order of this Court entered on December 1, 2009 (Appeal No. 1586), and for a stay of said decision and order (M-5851),

And William E. Leavitt, Esq., retained counsel for petitioner having moved to be relieved as counsel for petitioner, and for related relief (M-240),

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

It is ordered that the motion for reargument and other relief is denied (M-5851). The motion to be relieved as petitioner's counsel is granted upon condition that counsel serves a copy of this order upon all parties within 10 days of the date of entry hereof (M-240).

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 March 9, 2010.

Present - Hon. Peter Tom, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Karla Moskowitz
Leland G. DeGrasse, Justices.

-----x
Lourdes Nieves,

Plaintiff-Appellant,

-against-

M-502
Index No. 108448/04

Jose Castillo, et al.,

Defendants-Respondents.
-----x

Plaintiff-appellant having moved for an enlargement of time in which to perfect the appeal from the order of the Supreme Court, New York County, entered on or about March 30, 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 June 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 March 9, 2010.

Present: Hon. Peter Tom, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Karla Moskowitz
Leland G. DeGrasse, Justices.

-----X
Chrisette Michele Payne,

Plaintiff-Appellant,

-against-

M-647
Index No. 602283/07

Douglas Ellison and Four Kings
Productions, Inc.,

Defendants-Respondents.

Songwriters Guild of America,

Amicus Curiae.
-----X

Appeals having been taken to this Court from the orders of the Supreme Court, New York County, entered on or about April 14, 2009 and on or about August 20, 2009, respectively, and said appeals having been perfected,

And Songwriters Guild of America having moved for leave to file a brief amicus curiae in connection with 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 granted and movant is directed to immediately file 10 copies of the amicus curiae brief with the Clerk of this Court.

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 March 9, 2010.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
David B. Saxe
Eugene Nardelli
Sheila Abdus-Salaam
Nelson S. Román, Justices.

-----x
Philippine Independence Day Council,
Incorporated,
Plaintiff-Respondent,

.-against-

M-612
Index No. 100021/10

Guillermo Gerry Austria, etc., et al.,
Defendants-Appellants.
-----x

An appeal having been taken to this Court from the amended order of Supreme Court, New York County, entered on or about January 12, 2010 (mot. seq. no. 002),

And defendants-appellants having moved for a stay of the aforesaid order pending hearing and determination 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 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 March 9, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
Helen E. Freedman
Nelson S. Román, Justices.

-----X
Lisa Riley and Kevin Riley,
Plaintiff-Respondents,

-against-

M-252
Index No. 303097/08

Segan, Nemerov & Singer, P.C. and
Segan, Culhane, Nemerov & Singer,
P.C.,
Defendants-Appellants.

-----X

Defendants-appellants having moved for a further enlargement of time in which to perfect the appeal from an order of the Supreme Court, Bronx County, entered on or about September 29, 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 June 2010 Term, with no further enlargements to be granted.

ENTER:


Clerk.

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

Present: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
John W. Sweeny, Jr.
Helen E. Freedman
Nelson S. Román, Justices.

-----X
The People of the State of New York
ex rel. Gilbert O. Cameron,
Petitioner,

-against-

M-5867
Ind. No. 2443/08

Dora B. Schirro, Commissioner,
New York City Department of
Corrections, et al.,
Respondents.

-----X

The above-named petitioner having moved for, inter alia, a writ of habeas corpus to be issued from this Court,

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

It is ordered that the motion be and the same hereby is granted to the extent of issuing the writ, and

It is further ordered that the habeas corpus proceeding herein be transferred to and be heard before a Justice of the Supreme Court of the State of New York, Bronx County, 851 Grand Concourse, Bronx, New York 10451, forthwith, and

It is further ordered that service by mail of a copy of this writ of habeas corpus, petition and supporting papers, by the Clerk of this Court, contemporaneous with the entry hereof, upon the Warden at Otis Bantum Correctional Center, 16-00 Hazen Street, East Elmhurst, New York 11370; the Attorney General of the State of New York, 120 Broadway, New York, New York 10271; and the District Attorney of Bronx County, 198 East 161st Street, Bronx, New York 10451, be deemed due and sufficient notice.

The motion is otherwise denied.

ENTER:

David Apokony
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 March 9, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
John T. Buckley
Leland G. DeGrasse
Rosalyn H. Richter, Justices.

-----X
Bender Burrows & Rosenthal, LLP

Plaintiff-Appellant-Respondent,

-against-

M-4743
Index No. 100358/06

Amy E. Simon,

Defendant-Respondent-Appellant.
-----X

Defendant-respondent-appellant having moved for clarification and/or reargument of or, in the alternative, for leave to appeal to the Court of Appeals from the decision and order of this Court entered on August 25, 2009 (Appeal No. 717-717A),

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 March 9, 2010.

PRESENT: Hon. David Friedman, Justice Presiding,
James M. McGuire
Rolando T. Acosta
Leland G. DeGrassé, Justices.

-----X
Schlam Stone & Dolan LLP,
Plaintiff-Respondent,

-against-

Penguin Tenants Corporation,
Defendant-Appellant.

-----X
Penguin Tenants Corp.,
Third-Party Plaintiff-Appellant,

-against-

David Goldsmith and Susan Chin,
Third-Party Defendants-Respondents.

-----X
Penguin Tenants Corp.,
Plaintiff-Appellant,

-against-

David Goldsmith and Susan Chin,
Defendants-Respondents.

-----X

M-501
Action 1
Index No. 104013/07

Third-Party
Index No. 509411/07

Action 2
Index No. 106060/07

An order of this Court (M-2367) having consolidated appeals taken from three (3) orders of the Supreme Court, New York County, each entered on or about May 7, 2009,

And plaintiff-respondent Schlam Stone & Dolan LLP having moved for dismissal of the aforesaid consolidated appeals,

Now, upon reading and filing the papers with respect to the motion, and the stipulation of the parties dated February 24, 2010 and due deliberation having been had thereon,

It is ordered that the motion and the appeals are withdrawn (See Appeal Nos. 1280N-1280NA, 1280NB decided simultaneously herewith).

ENTER:


Clerk.

Friedman, J.P., McGuire, Acosta, DeGrasse, JJ.

1280N-	Schlam Stone & Dolan, LLP,	Index 104013/07
1280NA	Plaintiff-Respondent,	590411/07
1280NB		106060/07

-against-

Penquin Tenants Corporation,
Defendant-Appellant.

- - - - -

Penquin Tenants Corporation,
Third-Party Plaintiff Appellant,

-against-

David Goldsmith, et al.,
Third-Party Defendants-Respondents.

- - - - -

Penquin Tenants Corporation,
Plaintiff Appellant,

-against-

David Goldsmith, et al.,
Defendants-Respondents.

Appeals having been taken to this Court by the above-named appellant from orders of the Supreme Court, New York County (Eileen Bransten, J.), entered on or about May 6, and May 7, 2009,

And said appeals having been argued by counsel for the respective parties; and due deliberation having been had thereon, and upon the stipulation of the parties hereto dated February 24, 2010,

It is unanimously ordered that said appeals be and the same are hereby withdrawn in accordance with the terms of the aforesaid stipulation.

ENTERED: MARCH 9, 2010



 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 March 9, 2010.

PRESENT: Hon. David Friedman, Justice Presiding,
John W. Sweeny, Jr.
Eugene Nardelli
Helen E. Freedman, Justices.

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

-against-

M-315
Ind. No. 2661/07

Jessie Ramirez,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, Bronx County, rendered on or about September 21, 2009, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is granted to the extent of permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 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, 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 March 9, 2010.

Present: Hon. David Friedman, Justice Presiding,
John W. Sweeny, Jr.
Eugene Nardelli
Dianne T. Renwick; Justices.

-----X
Port Parties, Ltd.,
Plaintiff-Respondent,

-against-

M-508
Index No. 116257/08

ENK International LLC, et al.,
Defendants-Appellants,

Forstmann Little & Co.,
Defendant.

-----X
Port Parties, Ltd.,
Plaintiff-Respondent,

-against-

Index No. 101979/09

ENK International LLC, et al.,
Defendants-Appellants.

-----X

Separate appeals having been taken by defendants-appellants in the respective actions from the consolidated order of the Supreme Court, New York County, entered on or about November 12, 2009,

And defendants having moved for consolidation of the aforesaid appeals,

Now, upon reading and filing the papers with respect to the motion, including the stipulation of the parties, dated January 25, 2010, and due deliberation having been had thereon,

It is ordered that the motion is granted to the extent of permitting appellant to prosecute the consolidated appeals upon 10 copies of one record and of 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 March 9, 2010.

PRESENT - Hon. David Friedman, Justice Presiding,
Karla Moskowitz
Dianne T. Renwick
Helen E. Freedman
Nelson S. Román, Justices.

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

-against-

Alphonso Simmons,
Defendant-Appellant.

M-458
Ind. Nos. 1467/06
4463/06

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about September 19, 2006,

And defendant having moved for an extension of time 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 July 12, 2010 for the September 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 March 9, 2010.

PRESENT: Hon. David Friedman, Justice Presiding,
Karla Moskowitz
Dianne T. Renwick
Helen E. Freedman
Nelson S. Román, Justices.

-----X
Atlantic Mutual Insurance Company,
Plaintiff-Respondent,

-against-

Greater New York Mutual Insurance
Company,
Defendant-Appellant,

-and-

M-481
Index No. 113846/06

Penmark Realty Corporation, 40
East 80 Apartment Corporation,
Selwyn R. Silver, Barbara
Nafissian, Jay B. Fischhoff,
Benjamin S. Klapper, Miriam H.
Weingarten, Stephen A. Marshall,
Brad Butler, Janet Greenberg
Baker and Norman Baker,
Defendants.

-----X

Defendant-appellant having moved for an enlargement of time in which to perfect the appeal from an order and judgment (one paper) of the Supreme Court, New York County, entered on or about March 25, 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 June 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 March 9, 2010.

PRESENT: Hon. David Friedman,, Justice Presiding,
Karla Moskowitz
Dianne T. Renwick
Helen E. Freedman
Nelson S. Román, Justices.

-----X
In the Matter of the Petition of
Michael Bifolco,
Petitioner-Appellant,

For a Judgment Pursuant to Article 78
of the CPLR,

M-512
Index No. 102445/08

-against-

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

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

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

It is ordered that the motion is granted to the extent of enlarging the time in which to perfect the appeal to the June 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 March 9, 2010.

PRESENT: Hon. David Friedman, Justice Presiding,
Karla Moskowitz
Dianne T. Renwick
Helen E. Freedman
Nelson S. Román, Justices.

-----X
Ernest James, Lily Lang individually
and as Guardian of Maya Lang and
Monique Lang,
Plaintiffs-Appellants,

-against-

M-548
Index No. 7254/07

Amado Jaquez and Oneida Jaquez,
Defendants-Respondents.
-----X

Plaintiffs-appellants having moved for an enlargement of time in which to perfect the appeal from an order of the Supreme Court, Bronx County, entered on or about April 3, 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 June 2010 Term.

ENTER:


Clerk.

PM ORDERS

ENTERED

MARCH 4, 2010

&

MARCH 5, 2010

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

-----X

M-1103

THE PEOPLE OF THE STATE OF NEW YORK,	:	Order Granting
	:	Stay of Execution
Respondent,	:	Of Judgment of
	:	Resentence and
-against-	:	Release on
	:	Recognizance
THOMASINA SNOW,	:	<u>After Appeal Taken</u>
	:	
Defendant-Appellant.	:	NY Ind. 0032/01

-----X

An appeal having been taken to this Court by the above-named defendant-appellant from the judgment of the Supreme Court, New York County, rendered on February 17, 2009, resentencing her to 3 concurrent 5-year determinate prison terms, each with 5 years of post-release supervision (appellant having previously been sentenced following her 3 attempted second-degree robbery convictions to concurrent 5-year prison terms with no post-release supervision), and appellant having perfected her appeal by filing a brief with the Court on July 9, 2009, and appellant having moved, pursuant to CPL §§460.50 and 530.50, to (1) stay and/or suspend execution of the judgment of resentence and (2) be released on her own recognizance pending the hearing and determination of her appeal,

Now, upon reading and filing the notice of motion, with proof of due service thereof, and the papers submitted in support of the motion and in opposition or in relation thereto; and after

hearing Mark W. Zeno, Esq., for the motion, and ADA Alan Gadlin on behalf of the office of the District Attorney, New York County, in a letter dated March 3, 2010, taking no position, it is

ORDERED that said motion be and the same hereby is granted and the judgment of resentence is stayed and suspended pending the hearing and determination of the appeal, and it is further

ORDERED that ~~and~~ appellant is released on her own recognizance pending the hearing and determination of the appeal.

Dated: March 4, 2010



Justice Dianne T. Renwick

ENTERED

MAR 04 2010

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

-----X

M-1102

THE PEOPLE OF THE STATE OF NEW YORK, : Order Granting
Respondent, : Stay of Execution
-against- : Of Judgment of
PAUL JAMES, : Resentence and
 : Release on
 : Recognizance
 : After Appeal Taken
Defendant-Appellant. : NY Ind. 3967/01

-----X

An appeal having been taken to this Court by the above-named defendant-appellant from the judgment of the Supreme Court, New York County, rendered on October 31, 2008, resentencing him to two concurrent 7-year determinate prison terms, each with 5 years of post-release supervision (appellant having previously been sentenced following his attempted second-degree robbery and second-degree assault convictions to concurrent 7-year prison terms with no post-release supervision), and appellant having perfected his appeal by filing a brief with the Court on November 5, 2009, and appellant having moved, pursuant to CPL §§460.50 and 530.50, to (1) stay and/or suspend execution of the judgment of resentence and (2) be released on his own recognizance pending the hearing and determination of his appeal,

Now, upon reading and filing the notice of motion, with proof of due service thereof, and the papers submitted in support of the motion and in opposition or in relation thereto; and after

hearing Mark W. Zeno, Esq., for the motion, and ADA Alan Gadlin on behalf of the office of the District Attorney, New York County, in a letter dated March 3, 2010, taking no position, it is

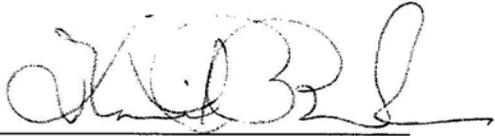
ORDERED that said motion be and the same hereby is granted and the judgment of resentence is stayed and suspended pending the hearing and determination of the appeal, and it is further

ORDERED that ~~and~~ appellant is released on her^{is} own  recognizance pending the hearing and determination of the appeal.

Dated: March 4, 2010

ENTERED

MAR 04 2010


Justice Dianne T. Renwick

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

-----X
M-1101
THE PEOPLE OF THE STATE OF NEW YORK, : Order Granting
Respondent, : Stay of Execution
-against- : Of Judgment of
JOHN SIERRA, : Resentence and
 : Release on
 : Recognizance
 : After Appeal Taken
Defendant-Appellant. : NY Ind. 2117/02
-----X

An appeal having been taken to this Court by the above-named defendant-appellant from the judgment of the Supreme Court, New York County, rendered on December 3, 2008, resentencing him to a 5-year determinate prison term, with 5 years of post-release supervision (appellant having previously been sentenced following his second-degree robbery conviction to a 5-year prison term with no post-release supervision), and appellant having perfected his appeal by filing a brief with the Court on November 9, 2009, and appellant having moved, pursuant to CPL §§460.50 and 530.50, to (1) stay and/or suspend execution of the judgment of resentence and (2) be released on his own recognizance pending the hearing and determination of his appeal,

Now, upon reading and filing the notice of motion, with proof of due service thereof, and the papers submitted in support of the motion and in opposition or in relation thereto; and after hearing Mark W. Zeno, Esq., for the motion, and ADA Alan Gadlin

on behalf of the office of the District Attorney, New York County, in a letter dated March 3, 2010, taking no position, it is

ORDERED that said motion be and the same hereby is granted and the judgment of resentence is stayed and suspended pending the hearing and determination of the appeal, and it is further

ORDERED that ~~and~~ appellant is released on her^s own  recognizance pending the hearing and determination of the appeal.

Dated: March 4, 2010

ENTERED


Justice Dianne T. Renwick

MAR 04 2010

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

-----X
M-1100
THE PEOPLE OF THE STATE OF NEW YORK, : Order Granting
Respondent, : Stay of Execution
-against- : Of Judgment of
MELVIN JOHNSON, : Resentence and
 : Release on
 : Recognizance
 : After Appeal Taken
 : NY Ind. 2957/01
-----X

An appeal having been taken to this Court by the above-named defendant-appellant from the judgment of the Supreme Court, New York County, rendered on September 24, 2008, resentencing him to two concurrent 5-year determinate prison terms, each with 5 years of post-release supervision (appellant having previously been sentenced following his second-degree assault and third-degree criminal possession of a weapon convictions to concurrent 5-year prison terms with no post-release supervision), and appellant having perfected his appeal by filing a brief with the Court on May 7, 2009, and appellant having moved, pursuant to CPL §§460.50 and 530.50, to (1) stay and/or suspend execution of the judgment of resentence and (2) be released on his own recognizance pending the hearing and determination of his appeal,

Now, upon reading and filing the notice of motion, with proof of due service thereof, and the papers submitted in support of the motion and in opposition or in relation thereto; and after

hearing Mark W. Zeno, Esq., for the motion, and ADA Alan Gadlin on behalf of the office of the District Attorney, New York County, in a letter dated March 3, 2010, taking no position, it is

ORDERED that said motion be and the same hereby is granted and the judgment of resentence is stayed and suspended pending the hearing and determination of the appeal, and it is further

ORDERED that ~~and~~ appellant is released on her ^{is} own  recognizance pending the hearing and determination of the appeal.

Dated: March 4, 2010

ENTERED

MAR 04 2010


Justice Dianne T. Renwick

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

-----X
M-1099

THE PEOPLE OF THE STATE OF NEW YORK,	:	Order Granting
	:	Stay of Execution
Respondent,	:	Of Judgment of
	:	Resentence and
-against-	:	Release on
	:	Recognizance
KEVIN SMILEY,	:	<u>After Appeal Taken</u>
	:	
Defendant-Appellant.	:	NY Ind. 886/02

-----X

An appeal having been taken to this Court by the above-named defendant-appellant from the judgment of the Supreme Court, New York County, rendered on October 27, 2008, resentencing him to a 7-year determinate prison term, with 5 years of post-release supervision (appellant having previously been sentenced following his attempted first-degree robbery conviction to a 5-year prison term with no post-release supervision), and appellant having perfected his appeal by filing a brief with the Court on March 21, 2009, and appellant having moved, pursuant to CPL §§460.50 and 530.50, to (1) stay and/or suspend execution of the judgment of resentence and (2) be released on his own recognizance pending the hearing and determination of his appeal,

Now, upon reading and filing the notice of motion, with proof of due service thereof, and the papers submitted in support of the motion and in opposition or in relation thereto; and after hearing Mark W. Zeno, Esq., for the motion, and ADA Alan Gadlin

on behalf of the office of the District Attorney, New York County, in a letter dated March 3, 2010, taking no position, it is

ORDERED that said motion be and the same hereby is granted and the judgment of resentence is stayed and suspended pending the hearing and determination of the appeal, and it is further

ORDERED that ~~and~~ appellant is released on her ^{is} own  recognizance pending the hearing and determination of the appeal.

Dated: March 4, 2010

ENTERED


Justice Dianne T. Renwick

MAR 04 2010

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

-----X
M-1098
THE PEOPLE OF THE STATE OF NEW YORK, : Order Granting
Respondent, : Stay of Execution
-against- : Of Judgment of
BENJAMIN RODRIGUEZ, : Resentence and
 : Release on
 : Recognizance
 : After Appeal Taken
Defendant-Appellant. : NY Ind. 4635/01
-----X

An appeal having been taken to this Court by the above-named defendant-appellant from the judgment of the Supreme Court, New York County, rendered on February 5, 2009, resentencing him to an 8-year determinate prison term, with 5 years of post-release supervision (appellant having previously been sentenced following his first-degree robbery conviction to an 8-year prison term with no post-release supervision), and appellant having perfected his appeal by filing a brief with the Court on June 26, 2009, and appellant having moved, pursuant to CPL §§460.50 and 530.50, to (1) stay and/or suspend execution of the judgment of resentence and (2) be released on his own recognizance pending the hearing and determination of his appeal,

Now, upon reading and filing the notice of motion, with proof of due service thereof, and the papers submitted in support of the motion and in opposition or in relation thereto; and after hearing Mark W. Zeno, Esq., for the motion, and ADA Alan Gadlin

on behalf of the office of the District Attorney, New York County, in a letter dated March 3, 2010, taking no position, it is

ORDERED that said motion be and the same hereby is granted and the judgment of resentence is stayed and suspended pending the hearing and determination of the appeal, and it is further

ORDERED that ~~and~~ appellant is released on her ^{is} own  recognizance pending the hearing and determination of the appeal.

Dated: March 4, 2010

ENTERED



Justice Dianne T. Renwick

MAR 04 2010

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

-----X
M-1097

THE PEOPLE OF THE STATE OF NEW YORK,	:	Order Granting
	:	Stay of Execution
Respondent,	:	of Judgment of
	:	Resentence and
-against-	:	Release on
	:	Recognizance
MARVIN PEAKS,	:	<u>After Appeal Taken</u>
also known as MARVIN PEAKES,	:	
	:	
Defendant-Appellant.	:	NY Ind. 10856/98

-----X

An appeal having been taken to this Court by the above-named defendant-appellant from the judgment of the Supreme Court, New York County, rendered on February 12, 2009, resentencing him to a 10-year determinate prison term followed by 5 years of post-release supervision (appellant having previously been sentenced following his second-degree robbery conviction to a 10-year determinate prison term with no post-release supervision), and, by order dated March 31, 2009, this Court having granted appellant's motion for poor person's relief and the assignment of counsel, and appellant having moved, pursuant to CPL §§460.50 and 530.50, to (1) stay and/or suspend execution of the judgment of resentence and (2) be released on his own recognizance pending the hearing and determination of his appeal,

Now, upon reading and filing the notice of motion, with proof of due service thereof, and the papers submitted in support

of the motion and in opposition or in relation thereto; and after hearing Mark W. Zeno, Esq., for the motion, and ADA Alan Gadlin on behalf of the office of the District Attorney, New York County, in a letter dated March 3, 2010, taking no position, it is

ORDERED that said motion be and the same hereby is granted and the judgment of resentence is stayed and suspended pending the hearing and determination of the appeal, on the condition that said appeal be perfected within 120 days from the date hereof, and it is further

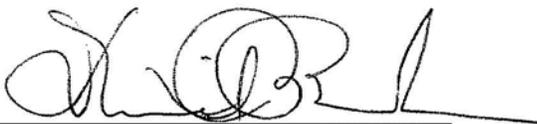
ORDERED that appellant is released on his own recognizance pending the hearing and determination of the appeal, subject to the same condition.

In the event of the failure to comply with the foregoing condition within the time specified (or such extensions thereof as may be granted), appellant shall surrender himself to the Supreme Court, New York County, in order that execution of said judgment be resumed.

Dated: March 4, 2010

ENTERED

MAR 04 2010



Justice Dianne T. Renwick

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

-----X
M-1096
THE PEOPLE OF THE STATE OF NEW YORK, : Order Granting
Respondent, : Stay of Execution
-against- : Of Judgment of
LAWRENCE WHITE, : Resentence and
 : Release on
 : Recognizance
 : After Appeal Taken
Defendant-Appellant. : NY Ind. 3811/99
-----X

An appeal having been taken to this Court by the above-named defendant-appellant from the judgment of the Supreme Court, New York County, rendered on July 2, 2008, resentencing him to a 5-year determinate prison term, with 5 years of post-release supervision (appellant having previously been sentenced following his first-degree robbery conviction to a 5-year prison term with no post-release supervision), and appellant's perfected appeal having been heard by the Court on September 22, 2009, and appellant having moved, pursuant to CPL §§460.50 and 530.50, to (1) stay and/or suspend execution of the judgment of resentence and (2) be released on his own recognizance pending the hearing and determination of his appeal,

Now, upon reading and filing the notice of motion, with proof of due service thereof, and the papers submitted in support of the motion and in opposition or in relation thereto; and after hearing Mark W. Zeno, Esq., for the motion, and ADA Alan Gadlin

on behalf of the office of the District Attorney, New York County, in a letter dated March 3, 2010, taking no position, it is

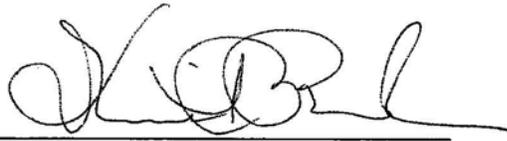
ORDERED that said motion be and the same hereby is granted and the judgment of resentence is stayed and suspended pending the hearing and determination of the appeal, and it is further

ORDERED that ~~and~~ appellant is released on her ^{is} own  recognizance pending the hearing and determination of the appeal.

Dated: March 4, 2010

ENTERED

MAR 04 2010



Justice Dianne T. Renwick

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

-----X
M-1095
THE PEOPLE OF THE STATE OF NEW YORK, : Order Granting
Respondent, : Stay of Execution
-against- : Of Judgment of
DAVID SNIPES, : Resentence and
 : Release on
 : Recognizance
 : After Appeal Taken
Defendant-Appellant. : NY Ind. 8007/98
-----X

An appeal having been taken to this Court by the above-named defendant-appellant from the judgment of the Supreme Court, New York County, rendered on November 28, 2008, resentencing him to a 10-year determinate prison term, with 5 years of post-release supervision (appellant having previously been sentenced following his first-degree robbery conviction to a 10-year prison term with no post-release supervision), and appellant having perfected his appeal by filing a brief with the Court on June 26, 2009, and appellant having moved, pursuant to CPL §§460.50 and 530.50, to (1) stay and/or suspend execution of the judgment of resentence and (2) be released on his own recognizance pending the hearing and determination of his appeal,

Now, upon reading and filing the notice of motion, with proof of due service thereof, and the papers submitted in support of the motion and in opposition or in relation thereto; and after hearing Mark W. Zeno, Esq., for the motion, and ADA Alan Gadlin

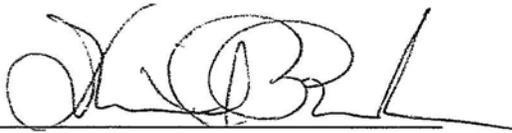
on behalf of the office of the District Attorney, New York County, in a letter dated March 3, 2010, taking no position, it is

ORDERED that said motion be and the same hereby is granted and the judgment of resentence is stayed and suspended pending the hearing and determination of the appeal, and it is further

ORDERED that ~~and~~ appellant is released on her ^{is} own  recognizance pending the hearing and determination of the appeal.

Dated: March 4, 2010

ENTERED


Justice Dianne T. Renwick

MAR 04 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 March 4, 2010.

Present: Hon. Peter Tom, Justice Presiding,
John W. Sweeny, Jr.
James M. Catterson
Karla Moskowitz
Leland G. DeGrasse, Justices.

-----X
James L. Melcher,

Plaintiff-Appellant-Respondent/
Plaintiff-Respondent,

M-626
M-675
M-737

-against-

Index No. 604047/03

Apollo Medical Fund Management
L.L.C., and Brandon Fradd,

Defendants-Respondents-Appellants/
Defendants-Appellants.

-----X

An appeal and cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about September 8, 2009, and appeals having been taken from the order of said Court entered on or about January 8, 2010 and from the judgment of said Court, entered on or about February 2, 2010,

And defendant Brandon Fradd having moved for a stay of enforcement of the aforesaid judgment entered on or about February 2, 2010, pending hearing and determination of the aforesaid appeals and cross appeal (M-626),

And plaintiff James L. Melcher having cross-moved for the correction of the caption in this matter to indicate that plaintiff is the direct appellant and defendants the cross appellants (M-675),

And defendant Brandon Fradd having moved, inter alia, to set aside Notice of Exception to Surety served by plaintiff; vacating restraining notices and information subpoenas issued by counsel for plaintiff; and an appellate injunction barring plaintiff from serving any further restraining notices or otherwise attempting to enforce the judgment, pending hearing and determination of the aforesaid appeals and cross appeal (M-737),

March 4, 2010

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

Ordered that the motion to stay enforcement of the judgment entered on or about February 2, 2010 (M-626) is granted on condition defendants, or either of them, post an additional undertaking in the amount of \$20,000, in proper form, within 20 days after the date of this order, and on further condition that in the event that plaintiff does not perfect his direct appeal on or before March 22, 2010 for the June 2010 Term, defendants perfect their appeals as direct appellants on a single set of briefs and record on appeal on or before July 12, 2010 for the September 2010 Term. The cross motion with respect to the caption (M-675) is granted as indicated. The motion by defendant Fradd (M-737) is granted to the extent indicated and otherwise denied.

ENTER:

A handwritten signature in cursive script, appearing to read "David Apolony".

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 March 4, 2010.

Present - Hon. David Friedman, Justice Presiding,
James M. Catterson
Rolando T. Acosta
Leland G. DeGrasse
Sheila Abdus-Salaam, Justices.

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

Melissa Marie G.,
Petitioner-Respondent-Appellant,
-against-

M-169
M-309
M-254
Docket No. V5924/06

John Christopher W.,
Respondent-Appellant-Respondent.

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

Sheryl W.,
Petitioner-Respondent-Appellant,
-against-

Docket No. V7821/06

Melissa G.,
Respondent-Respondent-Appellant,
-and-

John Christopher W.,
Respondent-Appellant-Respondent.

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Respondent father John Christopher W. having taken an appeal from the order of the Family Court, New York County, entered on or about July 3, 2008, under the combined Docket Nos. V5924/06 and V7821/06, respectively,

And petitioner paternal grandmother Sheryl W. having taken a cross appeal from the aforesaid order entered on or about July 3, 2008 under the combined docket numbers,

And petitioner paternal grandmother Sheryl W. having moved to preclude petitioner/respondent-respondent-appellant Melissa Marie G. from filing a respondent's brief, and for related relief under Docket No. V7821/06 (M-169),

And petitioner/respondent-respondent-appellant Melissa Marie G. having cross-moved to dismiss the appeal under Docket No. V7821/06 upon the ground said appeal was perfected upon an incomplete record on appeal (M-309),

And respondent-appellant father John Christopher W. having moved, inter alia, for an order directing that his appeal perfected under Docket No. V5924/06 be heard separately from the appeal under Docket No. V7821/06 (M-254),

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

It is ordered that the motions and cross motion are denied, and the Clerk is directed to calendar the appeals for hearing together in the May 2010 Term of Court.

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 March 5, 2010.

Present - Hon. Richard T. Andrias, Justice Presiding,
Eugene Nardelli
James M. Catterson
Rolando T. Acosta
Leland G. DeGrasse, Justices.

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The People of the State of New York,
Respondent,

-against-

M-1078
Docket No. 51080C/05

Edgar Correa,
Defendant-Appellant.

-----X

Respondent, having moved for a stay in all respects of the decision and order of this Court in *People v Correa* (Appeal #5209, ___ AD3d ___, 2010 NY Slip Op 10533 [2010]), pending the hearing and determination of the appeal to the Court of Appeals pursuant to a Certificate Granting Leave dated February 24, 2010 (M-959),

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 for a stay is in all respects denied and the interim stay previously issued is vacated.

There is no legal authority for the People to obtain the stay they seek. CPL 460.60 provides only for an application by a defendant, who was sentenced to a term of imprisonment, for a stay of judgment pending appeal to the Court of Appeals from an order of an intermediate appellate court.

Nor do we have the inherent authority to grant the stay. (See, *People v Moquin*, 77 NY2d 449, 455-6 [1991]). In *Moquin*, the Court of Appeals rejected the People's contention that their inability to obtain a stay was, in effect, frustrating their right to appeal.

Our decision in *People v Correa* (*supra*) reversed a judgment convicting defendant of harassment in the second degree and dismissed the misdemeanor information. We did not order that the Bronx Criminal Division (BCD) be dismantled and our order is not the functional equivalent of a writ of prohibition. Nor did we

address the authority of the Chief Judge to create the problem-solving courts, which involve different statutory and constitutional provisions than those implicated in *Correa*.

As our decision in *Correa* did not direct any person or party to do or forebear from doing anything, we are at a loss to understand what the terms of the stay would be.

Accordingly, the request for a stay is denied in its entirety and the interim stay previously issued is vacated.

All concur except Acosta, J. who would grant a stay and dissents as follows:

I respectfully dissent from the majority's denial of a stay.

The majority insists that a stay is improper here because there is nothing to stay in this criminal appeal, ignoring the clear import of its decision which impacts not only a significant number of adjudications of the Bronx Criminal Division (BCD), but threatens to undermine the highly successful problem-solving courts, such as the Drug Courts and Integrated Domestic Violence Courts, all of which permit the adjudication of all criminal matters, including non-indicted misdemeanors, in a single superior court.

While I agree with the majority that no authority for a stay can be found in the Criminal Procedure Law inasmuch as only defendant's liberty interests are implicated (see CPL 460.60; *People v Moquin*, 77 NY2d 449, 454-455 [1991]), the majority decision is akin to a writ of prohibition against the Unified Court System. Had the majority's sweeping sua sponte pronouncement taken place in the usual context of either an Article 78 proceeding or a plenary action, the Unified Court System would be a party and entitled to the automatic stay provision contained in CPLR 5519(a)(1). The separation of powers controversy was raised and then decided by the majority in a criminal proceeding in which the majority now asserts it is helpless to grant a stay.

The majority has challenged the powers of the Chief Judge and the Chief Administrative Judge in the context of a narrow criminal proceeding. Were the controversy properly before this Court on appeal, the majority should not trump clear legislative intent to preserve the status quo pending resolution of an appeal

or an order effectively restraining judicial or quasi judicial officers from acting without jurisdiction or in excess of their jurisdiction (*cf. Ulster Home Care v Vacco*, 255 AD2d 73 [1999]). It is in this context that the majority has the inherent authority to craft a remedy whereby defendant's rights are protected, while at the same time, the impact of the decision on the various problem-solving courts can be stayed pending resolution by the Court of Appeals. It should be noted that prospective defendants in the BCD are protected since Bronx Administrative Judge Efrain Alvarado has already issued an order bringing the BCD in compliance with the *Correa* decision. But, the ramifications of this decision on prior convictions in BCD, as well as the thousands of orders of protection, could be devastating to our court system. Also, this decision may have a devastating impact on the other problem solving courts. For these reasons, I dissent.

ENTER:


Clerk