

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 May 11, 2010.

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

-----X
Aissatou Diallo and Ivan Zachary
Burroughs,

Plaintiffs-Appellants-Respondents,

-against-

M-1799X
Index No. 114093/07

Mill Pen Corp., doing business as
Eastern Store Equipment Co., Joseph
Buser doing business as Eastern Store
Equipment Co.,

Defendants-Appellants-Respondents,

Triunfo Specialty Foods, Corp., sued
herein as Triunfo Foods Import and
Export Corp., Triunfo Specialty Foods
Corp.,

Defendants-Respondents-Appellants,

Silamos-Sociedade Industrial De Louca
Metalica Campos, S.A.,

Defendant-Respondent.

-----X

Appeals and a cross appeal having been taken from the order of the Supreme Court, New York County, entered on or about August 7, 2009 (mot. seq. no. 004),

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" April 5, 2010, and due deliberation having been had thereon,

It is ordered that the appeals and cross appeal are withdrawn in accordance with the aforesaid stipulation.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 May 11, 2010.

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

-----X
Maria R. Pereira, Administratrix of
the Estate of Manuel Pereira, deceased,
and Maria R. Pereira, Individually,
Plaintiffs-Respondents,

-against-

M-1528

Index No. 110554/08

Triborough Bridge and Tunnel Authority,
et al.,
Defendants.

-----X
Triborough Bridge and Tunnel Authority,
et al.,
Third-Party Plaintiffs-Respondents,

Third-Party
Index No. 590920/09

-against-

El Sol Contracting and Construction
Corp.,
Third-Party Defendant-Appellant.

-----X
Triborough Bridge and Tunnel Authority,
et al.,
Second Third-Party Plaintiffs-
Respondents,

Second Third-Party
Index No. 590095/10

-against-

El Sol Contracting and Construction
Corp.,
Second Third-Party Defendant-
Appellant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about March 19, 2010,

And third-party defendant/second third-part defendant-appellant El Sol Contracting and Construction Corp., having moved for a stay of trial pending hearing and determination of the appeal herein, and other relief,

Now, upon reading and filing the papers with respect to the motion, and the correspondence from Baxter Smith & Shapiro, P.C. (Sim R. Shapiro of counsel), dated March 26, 2010, and due deliberation having been had thereon, it is

Ordered that the motion and the appeal are deemed withdrawn in accordance with the aforesaid correspondence.

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 May 11, 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-1499
Ind. No. 3686/08

Alberto Deluna,
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 23, 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 May 11, 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-1500
Ind. No. 1142/09
Victor Duperroy,
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 24, 2010, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is 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 May 11, 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-1501
Ind. No. 1161/09

Miguel Ramos,
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.

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 May 11, 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-1502
Ind. No. 6165/08

Jason Riley,
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 2, 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 May 11, 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-1503
Ind. No. 1599/09

Darrell Williams,
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 15, 2010, for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for related relief,

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

It is ordered that the motion is 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 May 11, 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-1504
Ind. No. 883/08

Jose Monclova,
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 November 4, 2009, 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 May 11, 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-1505
Ind. No. 3808/08

Donsha Jackson, also known as
Donsha A. Jackson,
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 23, 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 May 11, 2010.

PRESENT - Hon. Luis A. Gonzalez, Presiding Justice,
Peter Tom
John W. Sweeny, Jr.
James M. Catterson
Karla Moskowitz, Justices.

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

-against-

M-1443
Ind. No. 6399/07

Christopher Clark, also known as
Angel Cruz,
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, New York County, rendered on or about June 20, 2008, 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 May 11, 2010.

Present - Hon. Luis A. Gonzalez, Presiding Justice,
David B. Saxe
Eugene Nardelli
James M. McGuire
Karla Moskowitz, Justices.

-----X
In the Matter of a Probate Proceeding,
Will of

Rocky H. Aoki, also known as
Hiroaki Aoki,
Deceased.

Keiko Ono Aoki, Surrogate's Court
Petitioner-Respondent, M-1422
File No. 2604-2008

Kana Aoki Nootenboom, Kevin Aoki,
Echo Akoi and Kyle Aoki,
Objectants-Appellants.

-----X

An appeal having been taken to this Court from the order of the Surrogate's Court, New York County, entered on or about December 28, 2009, and so modified by the order of said Court, entered on or about February 2, 2010,

And petitioner-respondent having moved for dismissal of the aforesaid appeal or, in the alternative, for adjournment of 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 adjourning the appeal to the September 2010 Term, and the motion is otherwise denied, without prejudice to raising the issue in the respondent's brief.

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 May 11, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
David B. Saxe
Eugene Nardelli
James M. McGuire
Karla Moskowitz, Justices.

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

-against-

M-1636
Ind. No. 2972/08

Miguel Metias, also known as Miguel
Mejias,
Defendant-Appellant.

-----X

An order of this Court having been entered on December 3, 2009 (M-5075), granting defendant leave to prosecute, as a poor person, the appeal from a judgment of the Supreme Court, New York County, rendered on or about September 24, 2009, and assigning Steven Banks, Esq., as counsel to prosecute the appeal; and a motion having been made to relieve such counsel, and for related relief,

And defendant-appellant having moved to relieve Steven Banks, Esq., substitute retained counsel John R. Lewis, Esq. on appeal and for leave to have the appeal heard on the original record and upon a reproduced appellant's brief, and for other relief,

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

It is ordered that the motion is granted to the extent of striking the designation of assigned counsel Steven Banks, Esq. The poor person relief previously granted is continued. 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. The motion is otherwise denied as unnecessary.

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 May 11, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
David B. Saxe
Eugene Nardelli
James M. McGuire
Karla Moskowitz, Justices.

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

-against-

M-1478
Ind. No. 5383/04

Quinton Dais,
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, rendered on or about February 25, 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** pursuant to Sec. 722 of the County Law. 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 May 11, 2010.

Present: Hon. Luis A. Gonzalez, Presiding Justice,
David B. Saxe
Eugene Nardelli
James M. McGuire
Karla Moskowitz, Justices.

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

-against-

M-1462
Ind. No. 1052/08

Christopher DeJesus,
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 January 26, 2010, and for leave to prosecute the appeal as a poor person on the original record and upon a reproduced appellant's brief, and for assignment of counsel,

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

It is ordered that the motion is granted to the extent of deeming the notice of appeal timely filed, and permitting the appeal to be heard on the original record, except that a certified copy of the indictment(s) shall be substituted in place of the original indictment(s), and upon a reproduced appellant's brief, on condition that appellant serves one copy of such brief upon the District Attorney of said county and files 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, Tel. 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 May 11, 2010.

PRESENT: Hon. Luis A. Gonzalez, Presiding Justice,
James M. Catterson
Karla Moskowitz
Dianne T. Renwick
Rosalyn H. Richter, Justices.

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

-against-

M-1544
Ind. No. 7170/95

Jeffrey Banks, also known as Kevin Weems,
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 January 15, 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.

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 May 11, 2010.

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

-----X
The People of the State of New York
ex rel. John Crosby,
Petitioner,

For a Judgment, etc.,

M-1081
Index No. 340024/09

-against-

New York City Department of Corrections,
Respondent.
-----X

Appeals having been purportedly taken from the orders of the Supreme Court, Bronx County, entered on or about August 3, 2009 and on or about January 27, 2010,

And petitioner having moved for leave to prosecute, as a poor person, the aforesaid appeal(s), for leave to have the appeal(s) heard on the original record(s) and upon a reproduced appellant's brief, and for assignment of counsel,

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

It is ordered that the motion is denied, with leave to renew upon the submission of copies of the orders from which petitioner seeks to appeal and the submission of documentation demonstrating that petitioner has timely taken appeals from said orders.

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 May 11, 2010.

Present: Hon. Peter Tom, Justice Presiding,
Richard T. Andrias
David B. Saxe
James M. McGuire
Sallie Manzanet-Daniels, Justices.

-----X
The People of the State of New York
ex rel. Raphael E. Savino, Esq., on
behalf of

Frank Francomano and Carmine Francomano,
Jr.,

M-5249
Index No. 114709/09

Petitioners-Appellants,

-against-

Martin F. Horn, Commissioner, New York
City Department of Corrections,

Respondent-Respondent.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, entered on or about November 5, 2009, which denied petitioners' writ of habeas corpus petition,

And petitioners having moved for a reduction of bail, and for related relief 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 denied.

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 May 11, 2010.

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

-----X
In the Matter of

Janyesha B., also known as Janyesha
Elizabeth B.,

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

Edwin Gould Services for Children
and Families,
Petitioner-Respondent,

M-1362
Docket No. B15527/07

Nyesha H., also known as
Nyesha D. H.,
Respondent-Appellant.

Doneth Gayle, Esq., Lawyers for
Children,
Law Guardian for the Child.

-----X

Petitioner-respondent having moved for an order dismissing respondent-appellant's appeal taken from the order of the Family Court, New York County, entered on or about March 10, 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 to dismiss the appeal is granted unless the appeal is perfected on or before July 12, 2010 for the September 2010 Term. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided respondent serves a copy of this order upon the appellant 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 May 11, 2010.

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

-----X
Levarn Jones and Dollisha Jourdain-
Bowden,
Plaintiffs-Respondents,

-against-

Hertz Vehicles, LLC,
Defendant-Appellant.

M-1487
M-1573
Index No. 102685/06

-----X

An appeal having been taken from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about November 9, 2009,

And plaintiffs-respondents having moved to dismiss defendant's appeal (M-1487),

And defendant-appellant having cross-moved for leave to proceed with the aforesaid appeal (M-1573),

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 plaintiffs-respondents' motion (M-1487) to dismiss defendant's appeal is denied. Defendant's motion (M-1573) to proceed with the appeal is denied, as unnecessary.

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 May 11, 2010.

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

-----X
Trayvon Ward, an Infant by his Father
and Natural Guardian Troy Ward, and
Troy Ward individually,
Plaintiffs-Appellants,

-against-

M-1396
Index No. 15810/05

New York City Health and Hospitals
Corporation,
Defendant-Respondent.

-----X

Plaintiffs-appellants 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 October 8, 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 September 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 May 11, 2010.

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

-----X
Jacqueline Morales, as Proposed
Administratrix of the Estate of
George Morales, Deceased, and
Jacqueline Morales, Individually,

Petitioner-Respondent, M-1261
Index No. 101909/09

-against-

New York City Health and Hospitals
Corporation,

Respondent-Appellant.
-----X

Respondent-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 May 6, 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 September 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 May 11, 2010.

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

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

Respondent,

-against-

M-968
Ind. No. 4824/05

Eugene Lewis,

Defendant-Appellant.
-----x

An appeal having been taken to this Court from the judgment of the Supreme Court, New York County, rendered on or about December 11, 2006,

And assigned counsel for defendant-appellant having moved for leave to file a supplemental brief in connection with the aforesaid appeal (Exhibit A to the moving papers), and for adjournment of 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 deeming the supplemental brief submitted with the moving papers as timely filed for the September 2010 Term, to which Term the appeal is adjourned. Assigned counsel is directed to immediately file nine copies of said brief with the Clerk of the 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 May 11, 2010.

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

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

-against- M-1281
Ind. No. 1255/99

Anthony Gillespie
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, rendered on or about November 4, 2009, for leave to have the appeal heard upon the original record and a reproduced appellant's brief, for consolidation of said appeal with the order of the Supreme Court, New York County entered on or about September 11, 2009 which denied defendant's CPL 440.10 application, 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 **resentence**. The Clerk shall furnish a copy of such transcripts to appellant's counsel, without charge, the transcripts to be returned to this Court when appellant's brief is filed.

Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, New York 10006, Telephone No. 212-577-2523, is assigned as counsel for defendant-appellant for purposes of the appeal. The time within which appellant shall perfect this appeal is hereby enlarged until 120 days from the date of filing of the record. So much of the motion which seeks consolidation 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 May 11, 2010.

Present: Hon. Peter Tom, Justice Presiding,
David Friedman
Karla Moskowitz
Helen E. Freedman
Sheila Abdus-Salaam, Justices.

-----X
Stephen Thomas Moran,
Plaintiff-Respondent,

-against-

M-1491
Index No. 113837/08

Justine Clare Moran,
Defendant-Appellant.
-----X

Appeals having been taken from the orders of the Supreme Court, New York County, entered on or about September 15, 2009 and March 3, 2010, respectively,

And defendant-appellant having moved for consolidation of the aforesaid appeals, and for a stay of enforcement of the order entered on or about September 15, 2009 pending hearing and determination of said 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 permitting appellant to prosecute the appeals upon 10 copies of a joint record and of one set of appellant's points covering the appeals, and is otherwise denied. The interim relief granted by an order of a Justice of this Court dated March 22, 2010 is 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 May 11, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Dianne T. Renwick
Helen E. Freedman
Nelson S. Román, Justices.

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

-against-

Daniel Juarez,
Defendant-Appellant.

M-1180
Ind. Nos. 7349/03
6942/04

-----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 January 26, 2010 denying resentence, 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.

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 May 11, 2010.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Dianne T. Renwick
Helen E. Freedman
Nelson S. Román, Justices.

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

-against-

M-1254
Ind. No. 2667/07

Michael Brizan, also known as
Michael Brizen,
Defendant-Appellant.

-----X

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about December 18, 2007,

And defendant-appellant having moved for an order enlarging the record on appeal to include minutes of court appearances and adjournments enumerated in the moving papers,

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 counsel is directed to serve a copy of this order along with the notice of motion to expand the Judgment Roll upon the Clerk of the Supreme 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 May 11, 2010.

PRESENT - Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
James M. Catterson
David Friedman
Sheila Abdus-Salaam, Justices.

-----X
David Medina,
Plaintiff-Appellant,

-against-

City of New York,
Defendant-Respondent.

M-1229
Index No. 105198/02

-----X

An appeal having been taken to this Court by plaintiff-appellant from an order of the Supreme Court, New York County, entered on or about May 4, 2009 (mot. seq. no. 005),

And retained counsel, Earl A. Rawlins, Esq., having moved for an order relieving him as appellant's counsel, and for an enlargement appellant's of time in which to perfect 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 on condition that counsel serve a copy of this order upon all parties within 10 days of the date of entry hereof. The time in which to perfect the appeal is enlarged to on or before July 12, 2010 for to the September 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 May 11, 2010.

Present: Hon. Richard T. Andrias, Justice Presiding,
John W. Sweeny, Jr.
Sheila Abdus-Salaam
Sallie Manzanet-Daniels, Justices.

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

-against-

M-1377
Ind. No. 2954/02

William Dennis, also known as Dennis
William,
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 February 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.

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 Sec 722 of the County Law. 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 May 11, 2010.

PRESENT - Hon. Richard T. Andrias, Justice Presiding,
James M. McGuire
Karla Moskowitz
Rolando T. Acosta
Leland G. DeGrasse, Justices.

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

Edward Bowman,
Petitioner- Appellant,

For a Judgment Pursuant to Article
78 of the CPLR,

M-1238
Index No. 402966/09

-against-

Patrick J. Brackley, Esq.,
Respondent-Respondent.

-----X

An appeal having been taken to this Court from the order and judgment (one paper) of the Supreme Court, New York County, entered on or about January 21, 2010,

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

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

It is ordered that the motion is 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 May 11, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
James M. McGuire
Karla Moskowitz
Rolando T. Acosta
Leland G. DeGrasse, Justices.

-----X
In the Matter of Guardianship of

Nadine L.; Natalie L.,

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

Edwin Gould Services for Children
and Families,
Petitioner-Respondent,

M-1361
Docket Nos. B-11269-70/06

Joseph L.,
Respondent-Appellant,

Lawyers for Children,
Law Guardian for the Children.

-----X
Petitioner having moved to dismiss the appeal taken from the orders of the Family Court, New York County, entered on or about September 12, 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 dismissing the appeal unless appellant perfects the appeal for September 2010 Term. Upon failure to so perfect, an order dismissing the appeal may be entered ex parte, provided that respondent serves a copy of this order upon appellant within 10 days from 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 May 11, 2010.

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

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

-against-

M-1428
Ind. No. 2374/07

Nick Zarbanelian,
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, New York County, rendered on or about June 30, 2009, 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.

Steven M. 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 May 11, 2010.

PRESENT: Hon. Eugene Nardelli, Justice Presiding,
James M. McGuire
Rolando T. Acosta
Helen E. Freedman
Nelson S. Román, Justices.

-----X
Capmark Finance, Inc., as servicer for
Capmark Bank and Capmark Bank,
Plaintiffs-Respondents,

-against-

2 South Avenue Partners, LLC,
Richard Hoch, David Soares and
Joseph Esmail, City of New York
and Cove Club Condominium,
Defendants-Appellants.

-----X
2 South Avenue Partners, LLC,
Richard Hoch, David Soares and
Joseph Esmail,
Defendants/Counterclaim
Plaintiffs-Appellants,

M-1761
Index No. 603196/08

-against-

Capmark Finance Inc. and Capmark Bank,
Plaintiffs/Counterclaim
Defendants-Respondents,

-and-

Capmark Financial Group Inc. and
"John Does 1 through 10",
Third-Party Defendants-
Respondents.

-----X
Appeals having been taken from the original and amended orders of the Supreme Court, New York County, entered on or about December 28, 2009 and February 19, 2010, respectively,

And defendants/counterclaim plaintiffs-appellants 2 South Avenue Partners, LLC, Richard Hoch and David Soares and Joseph Esmail, having moved for a discretionary appellate preference to expedite the hearing 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 granted to the extent of directing the Clerk to maintain the appeals on the calendar for whatever term appellant perfects.

ENTER:


Clerk.

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

BEFORE: Hon. Helen E. Freedman
Justice of the Appellate Division

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

-against-

ROLAND MARTIN,

Defendant.

-----X

M-427
Ind. No. 305/08
4823/08
CERTIFICATE
DENYING LEAVE

I, Helen E. Freedman, 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(2) and 440.20, 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, pursuant to the above cited provision, and permission to appeal from the order of the Supreme Court, New York County, entered on or about December 21, 2009 is hereby denied.



Hon. Helen E. Freedman
Associate Justice

Dated: April 26, 2010
New York, New York

ENTERED: MAY 1 2010

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

BEFORE: Hon. Helen E. Freedman
Justice of the Appellate Division

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

M - 1711
Indictment. No.
1754/04

-against-

CERTIFICATE
DENYING LEAVE

PAUL MARINO,

Defendant.

-----X

I, Helen E. Freedman, 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 the Criminal Procedure Law §§ 450.15 & 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 March 23, 2010 is hereby denied.

H20
Hon. Helen E. Freedman
Associate Justice

Dated: April 23, 2010
New York, New York

ENTERED: MAY 1 2010

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

BEFORE: Hon. Sheila Abdus-Salaam
Justice of the Appellate Division

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

M - 1367
Ind. No. 2194/94

-against-

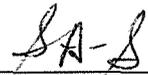
CERTIFICATE
DENYING LEAVE

Charles Collins

Defendant.

-----X

I, Sheila Abdus-Salaam, 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 December 30, 2009 is hereby denied.



Associate Justice

Dated: April 23, 2010
New York, New York

ENTERED: MAY 1 2010

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT

MAY 11 2010

Angela M. Mazzarelli, Justice Presiding,
Richard T. Andrias
David B. Saxe
James M. Catterson
Rolando T. Acosta, Justices.

-----x

In the Matter of Janeen S. Jones,
(admitted as Janeen Sykie Jones),
an attorney and counselor-at-law:

Departmental Disciplinary Committee M-4261
for the First Judicial Department, M-5312
Petitioner,

Janeen S. Jones,
Respondent.

-----x

Disciplinary proceedings instituted by the Departmental
Disciplinary Committee for the First Judicial Department.
Respondent, Janeen S. Jones, was admitted to the Bar of the
State of New York at a Term of the Appellate Division of the
Supreme Court for the Second Judicial Department on July 25,
2001.

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

Lewis Brisbois Bisgaard & Smith, LLP
(Mark K. Anesh, of counsel), for respondent.

M-4261 November 23, 2009
M-5312 December 1, 2009

IN THE MATTER OF JANEEN S. JONES, AN ATTORNEY

Per Curiam

Respondent Janeen S. Jones was admitted to practice law in the State of New York by the Second Judicial Department on July 25, 2001 under the name Janeen Sykie Jones. At all times relevant to this proceeding, respondent maintained an office within the First Judicial Department.

The Departmental Disciplinary Committee now seeks an order pursuant to 22 NYCRR 603.4(e)(1)(i) immediately suspending respondent from the practice of law based upon her failure to cooperate with the Committee's investigation of allegations of professional misconduct against her.

In August 2008, Ms. Gray-Nelson filed a complaint with the Committee against respondent in connection with an investment her husband made in a company for which respondent was counsel in June 2007. Since June 2008, Gray-Nelson has been unable to contact respondent despite repeated efforts at writing her at her office and home, discovering that the addresses that respondent gave were invalid. Additionally, Gray-Nelson alleges that most of the representations with respect to the investment appear to be false and that the funds invested have never been returned.

In April 2009, a second complaint was filed against respondent by Ms. Jordan. Jordan alleges that in 2006,

respondent obtained Jordan's personal information to assist her in receiving a business loan, but that she used the information to fill out a lease application on an apartment and forge Jordan's signature as co-signee.

On or about September 12, 2008, the Committee sent a copy of the Gray-Nelson complaint to respondent at her business address, and requested an answer be filed within 20 days. This correspondence was returned to the Committee unopened. Moreover, subsequent letters sent by the Committee's investigator to respondent's home addresses as listed in OCA records were not answered.

In October 2008, the Committee's investigator visited respondent's purported residence, but she was not present and the individuals that were present claimed they did not know respondent. On or about October 27, 2008, the U.S. Postal Service advised the Committee that the mailing addresses they had for respondent were indeed valid.

On three successive days in March 2009, the Committee's investigator unsuccessfully attempted to personally serve a judicial subpoena duces tecum at respondent's address in Brooklyn. The subpoena directed respondent to appear before the Committee on April 21, 2009 and to provide an answer to the Gray-Nelson complaint. On March 30, 2009, respondent was served with the subpoena by substituted service. The Committee continued its

attempts to contact respondent by sending letters to both of her Brooklyn addresses by regular and certified mail, and by regular mail to an address in Jersey City found in an internet search. The regular mail was never returned or answered and the certified mail was returned as "unclaimed".

On or about August 6, 2009, the Committee sent a copy of the Jordan complaint to respondent at her Manhattan business address and directed her to answer within 20 days. Respondent failed to respond to the Committee's letter and it was returned, unopened.

The Committee now moves for immediate suspension pursuant to 22 NYCRR 603.4(e)(1)(i), maintaining that respondent's noncooperation with their investigation "evinces a shocking disregard for the judicial system, and can only be interpreted as a deliberate and willful attempt to impede the Committee's investigation" (*Matter of Gordon*, 142 AD2d 135, 137 [1988]). In response, by letter dated October 1, 2009, counsel for respondent appeared and advised this Court that the Committee had consented to an adjourned date of November 2, 2009, with respondent's answering papers due on October 23, 2009. However, by letter dated October 19, counsel advised this Court that, with respondent's consent, counsel was withdrawing from representing her.

By letter dated November 2, 2009, new (and current) counsel for respondent advised that the instant motion again had been

adjourned on consent to November 23, 2009, with opposition "in hand by November 19, 2009". However, instead of filing an answer counsel has moved for permission to withdraw as respondent's counsel by notice of motion dated November 19, 2009, while also seeking an interim stay of the suspension motion pending the outcome of counsel's motion to withdraw. The interim stay application was denied.

On November 23, 2009, respondent submitted an affidavit whereby she avers that she did not intentionally refuse to cooperate with the Committee's investigation, rather, she had no notice of the two complaints against her because she had not received any of the Committee's correspondence. Respondent claims she has had to relocate her residence on several occasions because she was being stalked by a dangerous individual. She avers that as soon as her sister found a copy of the Committee's motion, respondent immediately retained counsel and states that she intends to cooperate.

Pursuant to 22 NYCRR 603.4(e)(1)(i), an attorney who is the subject of an investigation by the Committee may be temporarily suspended from the practice of law, pending consideration of the charges, upon a finding that the respondent is guilty of professional misconduct that immediately threatens the public interest, such as refusing to cooperate with the Committee's investigation of misconduct. Here, while respondent was

allegedly being stalked and did not provide her current addresses to OCA out of fear for her safety, at least since October 1, 2009, she has had copies of the two complaints filed against her. Despite that notice, to date, respondent has not submitted answers to the complaints nor has she appeared for a deposition (see *Matter of Ryans*, 37 AD3d 40 [2006] [attorney immediately suspended for, inter alia, failure to serve an answer and appear for a deposition relating to one complaint]; *Matter of Spiegler*, 33 AD3d 187 [2006]). Thus, respondent's conduct demonstrates a willful noncompliance with the Committee's investigation, warranting her immediate suspension (*Matter of Burke*, 54 AD3d 70 [2008]).

By notice of motion dated November 19, 2009, counsel for respondent seeks permission, pursuant to CPLR § 321(b)(2), to withdraw as counsel upon the grounds that respondent has been uncommunicative with counsel and has failed to remit the agreed-upon retainer fee, thus rendering it unreasonably difficult to properly represent her. Counsel also requests a stay of no less than 30 days to allow respondent to retain new counsel.

In opposition, respondent argues that the motion should be denied because she has paid counsel \$5,000 as a retainer. Respondent asserts that she has met with counsel and fully cooperated. Since counsel has appeared and filed opposition papers to the Committee's motion for an interim suspension after

submitting their withdrawal motion, the motion to withdraw is now moot and is denied.

Accordingly, the Committee's motion should be granted and respondent immediately suspended from the practice of law, until such time as disciplinary matters pending before the Committee have been concluded and until further order of the Court.

Respondent's counsel's motion to withdraw as counsel is denied, as moot.

All concur.

Order filed.

PM ORDERS

ENTERED

MAY 6, 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 May 6, 2010.

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

-----X

In the Matter of the Application of the Dormitory Authority of the State of New York to acquire title in fee to certain real property for use in a project to expand and consolidate

M-2320
Index No. 102934/01

John Jay College of Criminal Justice of the City University of New York.

River Center LLC, et al.,
Claimants-Appellants-Respondents,

-against-

The Dormitory Authority of the State of New York,
Condemnor-Respondent-Appellant.

-----X

An appeal having been taken from the order of the Supreme Court, New York County, entered on or about May 29, 2008, and an appeal and cross appeal having been taken from the judgment of said Court, entered on or about June 5, 2008, and said appeals and cross appeals having been perfected,

And claimants-appellants-respondents having moved for leave to correct their filed appellants' brief and to conform their reply brief to the corrected main 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 referred to the appeal bench for disposition. Movant is directed to immediately file 10 copies of the proposed substitute main brief and reply brief and a separate filing of 10 copies of the respective charts indicating the proposed corrections/changes in movants' filings. Respondent-cross appellant is permitted to immediately file points addressing the issue of the substance of the proposed corrections/changes and to further address same at the time of argument of the appeal.

ENTER:

A handwritten signature in black ink that reads "David Apolony". The signature is written in a cursive, flowing style with a long, sweeping tail on the final letter.

Clerk.

PM ORDERS

ENTERED

MAY 11, 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 May 11, 2010.

Present - Hon. Peter Tom, Justice Presiding,
David Friedman
Eugene Nardelli
Rolando T. Acosta
Sheila Abdus-Salaam, Justices.

-----x
William Boyle and Donna Boyle,
Plaintiffs-Respondents-Appellants,

-against-

The City of New York,
Defendant.

M-2518
Index No. 17227/02

- - - - -
The City of New York,
Third-Party Plaintiff,

-against-

Hougen Manufacturing, Inc.,
Third-Party Defendant-Appellant-
Respondent.

-----x

An appeal and cross appeal having been taken to this Court from the order of the Supreme Court, Bronx County, entered on or about October 27, 2009,

And third-party defendant-appellant having moved, on consent, for a stay of trial herein pending hearing and determination of the aforesaid appeal and cross appeal,

Now, upon reading and filing the papers with respect to the motion, and the stipulation of the parties dated May 5, 2010, and due deliberation having been had thereon,

It is ordered that the motion is granted.

ENTER:



Clerk

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on May 11, 2010.

PRESENT: Hon. Richard T. Andrias, Justice Presiding,
David B. Saxe
James M. McGuire
Karla Moskowitz
Helen E. Freedman, Justices.

-----X
Sureeva Stevens,
Plaintiff-Respondent,

-against-

M-2220
Index No. 104978/08

Lincoln Center for the Performing Arts
Inc.,
Defendant-Appellant-Respondent,

Restaurant Services, Inc. and Compass
Group USA, Inc.,
Defendants-Respondents-Appellants.
-----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 December 15, 2009 (mot. seq. no. 001),

And defendants-respondents-appellants having moved for leave to file a substitute replacement brief that replies to both plaintiff's-respondent's Sureeva Stevens brief and defendant-appellant-respondent Lincoln Center for the Performing Arts Inc.'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 deeming the brief filed by defendants-respondents-appellants dated April 9, 2010 accepted for filing nunc pro tunc, with leave to defendant-appellant-respondent Lincoln Center for the Performing Arts Inc. to file points in response to the arguments therein on or before May 11, 2010. 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 May 11, 2010.

PRESENT: Hon. Angela M. Mazzarelli, Justice Presiding,
John W. Sweeny, Jr.
Helen E. Freedman
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----x

Ralph W. Kern, et al.,
Petitioners-Respondents/Appellants,

-against-

M-1635
Index No. 107144/09

Excelsior 57th Corp., LLC,
Respondent-Appellant/Respondent.

-----x

An appeal having been taken to this Court by respondent from an order and judgment (one paper) of the Supreme Court New York County, entered on or about November 30, 2009 (mot. seq. no. 001) and an appeal having been taken by petitioners from the order of said Court entered on or about January 8, 2010 (mot. seq. no. 002), respectively,

And petitioners having moved for consolidation of the aforesaid appeals, 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 permitting the appeals to be heard upon 10 copies of a joint record. The parties are directed to serve and file separate briefs with respect to each of the appeals which are to be perfected on or before July 12, 2010 for the September 2010 Term.

ENTER:



Clerk.