

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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Michael F. Newton, Esq.,
Plaintiff-Respondent,

-against-

M-143
Index No. 653555/18

Buttafuoco and Associates, PLLC,
Defendant-Appellant,

Utica National Insurance Group, Utica First
Insurance Company and Faust Goetz
Schenker and Blee, L.P.,
Defendants.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about April 23, 2019,

Now, upon reading and filing the correspondence from counsel for defendant-appellant, dated January 6, 2020, and due deliberation having been had thereon,

It is ordered that the appeal is deemed withdrawn in accordance with the aforesaid correspondence.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Werner Worldwide Holding Company, LP,
Plaintiff-Appellant,

-against-

M-145
Index No. 653655/18

Werner US Sub Holding, Inc., et al.,
Defendants-Respondents.

-----X

Two appeals having been taken by plaintiff from the same order of the Supreme Court, New York County, entered on or about June 13, 2019,

Now, upon reading and filing the correspondence from counsel for plaintiff-appellant, dated January 7, 2020, and due deliberation having been had thereon,

It is ordered that the appeals are deemed withdrawn in accordance with the aforesaid correspondence.

ENTERED:



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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Consolidated Edison Company of
New York, Inc.,
Plaintiff-Appellant,

National Union Fire Insurance Company
of Pittsburgh, P.A., et al,
Plaintiffs,

M-146X
Index No. 653191/12

-against-

Sassine Razzouk, et al.,
Defendants-Respondents.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about August 7, 2019,

Now, after pre-argument conference and upon reading and filing the stipulation of the parties hereto, "so ordered" January 2, 2020, and due deliberation having been had thereon,

It is ordered that the appeal is deemed withdrawn in accordance with the aforesaid stipulation.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Eric Joyner,
Plaintiff-Respondent,

-against-

M-147
Index No. 22138/13E

City Carter Leasing, Incorporated and
Leonardo Chacon,
Defendants-Appellants.

-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about December 24, 2019,

Now, upon reading and filing the correspondence from counsel for defendants-appellants, dated December 30, 2019, and due deliberation having been had thereon,

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

ENTERED:



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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Subadrah Gobind, as Administrator of the
Estate of Narine Gobind,
Plaintiff-Appellant,

-against-

M-148
Index No. 25769/14E

Ohannes Nercessian M.D., Stephanie
Malliaris, M.D., Nicholas J. Morrissey,
M.D., and New York Presbyterian Hospital,
Defendants-Respondents.
-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about March 21, 2019,

Now, upon reading and filing the correspondence from counsel for plaintiff-appellant, dated January 7, 2020, and due deliberation having been had thereon,

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

ENTERED:



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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Fordgate West Resources LP
and Fordgate West LLC,
Plaintiffs-Appellants,

-against-

M-150
Index No. 651850/18

Ari Mark Bernstein, Terrence R. Manning,
BMO Holding LLC and Kaken Yam LLC,
Defendants-Respondents.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about March 13, 2019,

Now, upon reading and filing the correspondence from counsel for plaintiffs-appellants, dated January 7, 2020, and due deliberation having been had thereon,

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

ENTERED:



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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X
Cynthia Reid,
Plaintiff-Appellant,

-against-

M-151
Index No. 301578/15E

The City of New York and New York
City Housing Authority,
Defendants-Respondents.

-----X

An appeal having been taken from an order of the Supreme Court, Bronx County, entered on or about July 1, 2019,

Now, upon reading and filing the correspondence from counsel for plaintiff-appellant, dated January 3, 2020, and due deliberation having been had thereon,

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

ENTERED:



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 January 30, 2020.

Present - Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

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

Franklyn P.,
Petitioner-Appellant,

CONFIDENTIAL

M-8864

Docket No. O-21900/18

-against-

Elizabeth V.,
Respondent-Respondent.

-----x

Counsel for petitioner-appellant, Andrew J. Baer, Esq., having moved to withdraw the appeal taken from the order of the Supreme Court, New York County, entered on or about March 27, 2019, and to be relieved as counsel for petitioner-appellant on 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 and the appeal is deemed withdrawn.

ENTERED:



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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

M-8567
Ind. No. 868/18

Donald Gunter,
Defendant-Appellant.

-----X

An order of the Supreme Court, New York County, having been entered on or about September 6, 2019, inter alia, granting defendant poor person relief with respect to the appeal taken from the judgment of the Supreme Court, New York County, rendered on or about September 6, 2019,

Now, upon reading and filing the order which granted defendant poor person relief on appeal, and the notice of appeal filed on defendant's behalf,

It is ordered that the appeal is permitted 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) one transcript 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.

Janet E. Sabel, Esq., The Legal Aid Society, 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 180 days from the date of receipt of the complete record.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

M-8568
Ind. No. 1000/19

Joshua Sharp,
Defendant-Appellant.

-----X

An order of the Supreme Court, New York County, having been entered on or about September 10, 2019, inter alia, granting defendant poor person relief with respect to the appeal taken from the judgment of the Supreme Court, New York County, rendered on or about August 12, 2019,

Now, upon reading and filing the order which granted defendant poor person relief on appeal, and the notice of appeal filed on defendant's behalf,

It is ordered that the appeal is permitted 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) one transcript 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.

Janet E. Sabel, Esq., The Legal Aid Society, 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 180 days from the date of receipt of the complete record.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

M-8569
Ind. No. 1543/17

Jason Wright,
Defendant-Appellant.

-----X

An order of the Supreme Court, New York County, having been entered on or about June 26, 2019, inter alia, granting defendant poor person relief with respect to the appeal taken from the judgment of the Supreme Court, New York County, rendered on or about September 10, 2019,

Now, upon reading and filing the order which granted defendant poor person relief on appeal, and the notice of appeal filed on defendant's behalf,

It is ordered that the appeal is permitted 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) one transcript 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, 120 Wall Street, 28th Floor, New York, New York 10005, 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 180 days from the date of receipt of the complete record.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

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

-against-

M-8865
Ind. No. 4082N/15

Vedesh Maharaj,
Defendant-Appellant.

-----X

An appeal having been taken from a judgment of the Supreme Court, New York County, rendered on or about October 1, 2015,

Now, upon reading and filing the stipulation of the parties hereto, dated December 20, 2019, and due deliberation having been had thereon,

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

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

M-8866
SCI No. 03088N/19

Joseph Medina Hidalgo,
Defendant-Appellant.

-----X

An order of the Supreme Court, New York County, having been entered on or about December 12, 2019, inter alia, granting defendant poor person relief with respect to the appeal taken from the judgment of the Supreme Court, New York County, rendered on or about November 15, 2019,

Now, upon reading and filing the order which granted defendant poor person relief on appeal, and the notice of appeal filed on defendant's behalf,

It is ordered that the appeal is permitted 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) one transcript 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.

Janet E. Sabel, Esq., The Legal Aid Society, 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 180 days from the date of receipt of the complete record.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Dianne T. Renwick
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

M-8891
Ind. No. 1468/18

Stephon Isaacs,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, New York County, rendered on or about July 26, 2019, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) one transcript 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.

Janet E. Sabel, Esq., The Legal Aid Society, 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 180 days from the date of receipt of the complete record.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Dianne T. Renwick
Rosalyn H. Richter, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

Chantae Thompson,
Defendant-Appellant.

-----X

M-216
M-8171A
Ind. No. 1481/18
SCI No. 296N/18

An appeal having been taken from the judgment of the Supreme Court, New York County, rendered on or about June 4, 2019,

And an order of this Court having been entered on December 12, 2019 (M-8171), granting poor person relief and assigning Janet E. Sabel, Esq., The Legal Aid Society, as counsel for prosecuting the appeal,

Now, upon the Court's own motion, and the motion of assigned counsel,

It is ordered that the designation of Janet E. Sabel, Esq., The Legal Aid Society, as counsel for the purposes of prosecuting the aforesaid appeal is stricken, and the order of assignment, entered December 12, 2019 (M-8171) is recalled and vacated. (See Order, M-7734, entered November 19, 2019).

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

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

-against-

Carl Brown,
Defendant-Appellant.

M-7849
Ind. Nos. 8700/96
7185/96
7608/96

-----X

A decision and order of this Court having been entered on December 14, 2000 (Appeal No. 2629), unanimously affirming a judgments of the Supreme Court, New York County (Edward McLaughlin, J.), rendered on January 8, 1998,

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

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

It is ordered that said application is denied.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Rosalyn H. Richter
Sallie Manzanet-Daniels, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

M-8881
Ind. No. 220/15

Ken Goodwin,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, Bronx County, rendered on or about March 7, 2019, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) one transcript 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.

Christina Swarns, Esq., Office of the Appellate Defender, 11 Park Place, Suite 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 180 days from the date of receipt of the complete record.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
David Friedman
Anil C. Singh
Peter H. Moulton, Justices.

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

-against-

M-7818
Ind. No. 5705/02

Scott Blue,
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on October 16 2008 (Appeal No. 4290), unanimously affirming a judgment of the Supreme Court, New York County (Bernard J. Fried, J.), rendered on May 22, 2003,

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

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

It is ordered that said application is denied.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
Rosalyn H. Richter
Angela M. Mazzairelli
Troy K. Webber
Cynthia S. Kern, Justices.

-----X

In re Tyrone Nichols,
Petitioner-Appellant,

-against-

M-8408
Index No. 101204/17

The New York City Department of
Buildings Licensing Unit, et al.,
Respondents-Respondents.

-----X

Petitioner-appellant having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on October 22, 2019 (Appeal No. 10136),

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.

ENTERED:



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 January 30, 2020.

PRESENT: Hon. Rolando T. Acosta, Presiding Justice,
Judith J. Gische
Barbara R. Kapnick
Angela M. Mazzarelli, Justices.

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

-against-

Robert Fleming,
Defendant-Appellant.

M-951
M-3549
Ind. Nos. 564/09
32/09

-----X

A decision and order of this Court having been entered on July 5, 2016 (Appeal No. 1648), unanimously affirming a judgment of the Supreme Court, Bronx County (Margaret L. Clancy, J.), rendered on September 4, 2013, under Indictment No. 564/09,

And defendant-appellant having moved, in the nature of a writ of error coram nobis, for a review of his claim of ineffective assistance of appellate counsel, and for related relief under Ind. No. 564/09 (M-951),

And defendant-appellant have moved separately, in the nature of a writ of error coram nobis, for a review of his claim of ineffective assistance of appellate counsel, and/or for an extension of time to file a notice of appeal from a judgment of the Supreme Court, Bronx County, also rendered on or about September 4, 2013, under Indictment No. 32/09 (M-3549)

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

It is ordered that said applications are denied.

ENTERED:


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 January 30, 2020.

Present - Hon. David Friedman, Justice Presiding,
Dianne T. Renwick
Sallie Manzanet-Daniels
Anil C. Singh
Lizbeth González, Justices.

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

-against-

M-13
Ind. No. 2467/13

Goran Logan,
Defendant-Appellant.

-----X

Defendant-appellant having moved for leave to file a pro se supplemental brief in connection with an appeal taken from a judgment of the Supreme Court, New York County, rendered on or about January 6, 2015, for a copy of the trial transcripts and for an enlargement of time in which to file said pro se supplemental brief,

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

It is ordered that the motion is granted to the extent of directing defendant to serve and file an original and five copies of his pro se supplemental brief on or before March 16, 2020 for the June 2020 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.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. David Friedman, Justice Presiding,
Dianne T. Renwick
Barbara R. Kapnick
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X
Federal Home Loan Bank of Boston,
Plaintiff-Respondent,

-against-

M-8337
Index No. 656707/17

Moody's Corporation, et al.,
Defendants-Appellants.

-----X

Defendants-appellants having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on October 17, 2019 (Appeal No. 10106),

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.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. David Friedman, Justice Presiding,
Dianne T. Renwick
Barbara R. Kapnick
Ellen Gesmer
Cynthia S. Kern, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

M-8738
Ind No. 2606/12

Quentin F.,
Defendant-Appellant.

-----X

Defendant-appellant having moved for reargument of the decision and order of this Court, entered on November 12, 2019 (Appeal No. 10108),

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.

ENTERED:



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 January 30, 2020.

PRESENT: Hon. David Friedman, Justice Presiding,
Rosalyn H. Richter
Angela M. Mazzarelli
Troy K. Webber, Justices.

-----X
BDC Finance LLC,
Plaintiff-Appellant,

-against-

Barclays Bank PLC,
Defendant-Respondent.
-----X

M-8297
Index No. 650375/08

Plaintiff-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court, entered on October 8, 2019 (Appeal No. 10019),

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.

ENTERED:



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 January 30, 2020.

PRESENT: Hon. David Friedman, Justice Presiding,
Rosalyn H. Richter
Angela M. Mazzarelli
Troy K. Webber, Justices.

-----X
Errant Gene Therapeutics, LLC,
Plaintiff-Respondent,

-against-

M-8671
Index No. 150856/17

Sloan-Kettering Institute for
Cancer Research, et al.,
Defendants-Appellants.

-----X

Plaintiff-respondent having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on October 8, 2019 (Appeal No. 10026N),

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.

ENTERED:



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 January 30, 2020.

PRESENT: Hon. David Friedman, Justice Presiding,
Rosalyn H. Richter
Cynthia S. Kern
Anil C. Singh, Justices.

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

-against-

M-688
Ind. No. 4869/00

James King,
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on October 9, 2007 (Appeal Nos. 1651-1651A), unanimously affirming a judgment of the Supreme Court, Bronx County (Peter Benitez, J.), rendered on March 18, 2002,

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

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

It is ordered that said application is denied.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. David Friedman, Justice Presiding,
Troy K. Webber
Cynthia S. Kern
Lizbeth González, Justices.

-----X
Anthony J. Russo,
Plaintiff-Appellant,

-against-

M-8975
Ind. No. 100394/18

United Federation of Teachers and
New York City Department of Education,
Defendants-Respondents.

-----X

An appeal having been taken from an order of the Supreme Court, New York County, entered on or about May 3, 2019,

And plaintiff-appellant having moved to vacate the dismissal of the aforesaid appeal and for an extension of time to perfect same,

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.

ENTERED:



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 January 30, 2020.

Present: Hon. David Friedman, Justice Presiding,
Troy K. Webber
Cynthia S. Kern
Lizbeth González, Justices.

-----X

In the Matter of

Greysen G.,
Prince G.,
Amar G.,

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

CONFIDENTIAL
M-8860
Docket No. NA-8032-4/17

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

Liz C.,
Respondent-Appellant,

Patrick G.,
Respondent.

Kenneth M. Tuccillo, Esq.,
Attorney for the Child-
Respondent Greysen G.

-----X

An appeal having been taken from the order of the Family Court, Bronx County, entered on or about October 12, 2018, and said appeal having been perfected,

And Janet E. Sabel, Esq., The Legal Aid Society, assigned trial counsel for the children, having moved to be relieved as counsel for the child Greysen G., and for the assignment of new counsel on said child's behalf to respond, as a poor person, to the appeal, and for related relief,

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

It is ordered that the motion is granted to the extent of relieving Janet E. Sabel, Esq., The Legal Aid Society, as assigned counsel for Greysen G. and (1) assigning, pursuant to §1120 of the Family Court Act, Kenneth M. Tuccillo, Esq., 591 Warburton Avenue, No. 576, Hastings on Hudson, New York 10701, Telephone No.: 914-439-4843 , as counsel for purposes of responding to the appeal; and (2) permitting Greysen G. 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 each party to the appeal, and an original and five hard copies, and if represented by counsel, one digital copy of such brief, are filed with this Court, pursuant to 22 NYCRR Section 1250.9.

ENTERED:


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 January 30, 2020.

Present: Hon. David Friedman, Justice Presiding,
Troy K. Webber
Cynthia S. Kern
Lizbeth González, Justices.

-----X

In the Matter of

Greysen G.,
Prince G.,
Amar G.,

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

CONFIDENTIAL
M-8861
Docket No. NA-8032-4/17

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

Liz C.,
Respondent-Appellant,

Patrick G.,
Respondent.

Lewis S. Calderon, Esq.,
Attorney for the Child-
Respondent Prince G.

-----X

An appeal having been taken from the order of the Family Court, Bronx County, entered on or about October 12, 2018, and said appeal having been perfected,

And Janet E. Sabel, Esq., The Legal Aid Society, assigned trial counsel for the children, having moved to be relieved as counsel for the child Prince G., and for the assignment of new counsel on said child's behalf to respond, as a poor person, to the appeal, and for related relief,

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

It is ordered that the motion is granted to the extent of relieving Janet E. Sabel, Esq., The Legal Aid Society, as assigned counsel for Prince G. and (1) assigning, pursuant to §1120 of the Family Court Act, Lewis S. Calderon, Esq., 155-03 Jamaica Avenue, Jamaica, N.Y. 11432, Telephone No. 718-883-1560, as counsel for purposes of responding to the appeal; and (2) permitting Prince G. 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 each party to the appeal, and an original and five hard copies, and if represented by counsel, one digital copy of such brief, are filed with this Court, pursuant to 22 NYCRR Section 1250.9.

ENTERED:



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 January 30, 2020.

Present: Hon. David Friedman, Justice Presiding,
Troy K. Webber
Cynthia S. Kern
Lizbeth González, Justices.

-----X

In the Matter of

Greysen G.,
Prince G.,
Amar G.,

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

CONFIDENTIAL
M-8854
Docket No. NA-8032-4/17

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

Liz C.,
Respondent-Appellant,

Patrick G.,
Respondent.

Andrew J. Baer, Esq.,
Attorney for the Child-
Respondent Amar G.

-----X

An appeal having been taken from the order of the Family Court, Bronx County, entered on or about October 12, 2018, and said appeal having been perfected,

And Janet E. Sabel, Esq., The Legal Aid Society, assigned trial counsel for the children, having moved to be relieved as counsel for the child Amar G., and for the assignment of new counsel on said child's behalf to respond, as a poor person, to the appeal, and for related relief,

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

It is ordered that the motion is granted to the extent of relieving Janet E. Sabel, Esq., The Legal Aid Society, as assigned counsel for Amar G. and (1) assigning, pursuant to §1120 of the Family Court Act, Andrew J. Baer, Esq., 299 Broadway, Suite 1415, New York, NY 10007, Telephone No. 212-233-0318, as counsel for purposes of responding to the appeal; and (2) permitting Amar G. 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 each party to the appeal, and an original and five hard copies, and if represented by counsel, one digital copy of such brief, are filed with this Court, pursuant to 22 NYCRR Section 1250.9.

ENTERED:



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 January 30, 2020.

PRESENT: Hon. Dianne T. Renwick, Justice Presiding,
Judith J. Gische
Ellen Gesmer
Peter H. Moulton, Justices.

-----X
Billy Chicago Limited,
Plaintiff-Respondent,

-against-

Chicago China Tour, LLC, et al.,
Defendants-Appellants.

- - - - -

Chicago China Tour, LLC, M-8415
Third-Party Plaintiff-Appellant, Index Nos. 650234/14
595171/16

-against-

National Artists Management
Company, Inc., et al.,
Third-Party Defendants-Respondents.

- - - - -

Zhang Liang professionally known as
Jurek Zhang, et al.,
Third-Party Plaintiffs-Appellants

-against-

National Artists Management Company, Inc.,
Third-Party Defendants-Respondents.

-----X

Defendants-appellants having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on October 22, 2019 (Appeal No. 10169),

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

(M-8415)

-2-

January 30, 2020

It is ordered that the motion is denied.

ENTER:



A handwritten signature in black ink, appearing to read "Susan R. Jones", is written over a horizontal line. Below the line, the word "CLERK" is printed in a simple, sans-serif font.

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 January 30, 2020.

PRESENT: Hon. Dianne T. Renwick, Justice Presiding,
Barbara R. Kapnick
Peter H. Moulton
Lizbeth González Justices.

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

-against-

M-8138
Ind. No. 4989/14

Maurice Brunner,
Defendant-Appellant.

-----X

A decision and order of this Court having been entered on June 29, 2017 (Appeal No. 4381), unanimously affirming a judgment of the Supreme Court, New York County (Charles H. Solomon, J. at pretrial proceedings; Gregory Carro, J. At jury trial and sentencing), rendered on March 3, 2015,

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

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

It is ordered that said application is denied.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Dianne T. Renwick, Justice Presiding,
Anil C. Singh
Peter H. Moulton
Lizbeth González, Justices.

-----X
I.M., by Parent and
Natural Guardian L.M.,
Plaintiff-Appellant,

-against-

M-8809
Index No. 17741/07

City of New York, et al.,
Defendants-Respondents,

John Doe, etc., et al.,
Defendants.

-----X

Defendants-respondents having moved for leave to appeal to the Court of Appeals from the decision and order of this Court, entered on October 29, 2019 (Appeal No. 8453),

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.

ENTERED:



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 January 30, 2020.

PRESENT: Hon. Rosalyn H. Richter, Justice Presiding,
Judith J. Gische
Barbara R. Kapnick
Cynthia S. Kern
Peter H. Moulton, Justices.

-----X
Vera Arthur,
Plaintiff-Respondent-Appellant,

-against-

Gabriele Galletti,
Defendant-Appellant-Respondent.

M-8057
Index No. 350016/16

-----X

Plaintiff-respondent-appellant having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the decision and order of this Court, entered on October 1, 2019 (Appeal No. 9957),

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.

ENTERED:



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 January 30, 2020.

PRESENT: Hon. Sallie Manzanet-Daniels, Justice Presiding,
Judith J. Gische
Angela M. Mazzarelli
Troy K. Webber
Ellen Gesmer, Justices.

-----X

The People of the State of New York,
Respondent,

-against-

M-8772

Ind. No. 2398/15

Laquan Hamby,
Defendant-Appellant.

-----X

Defendant having moved for leave to prosecute, as a poor person, the appeal taken from a judgment of the Supreme Court, Bronx County, rendered on or about May 9, 2019, 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 an original, five hard copies and, if represented by counsel, one digital copy of such brief, together with the original record, pursuant to Section 1250.9 of the Practice Rules of the Appellate Division.

The court reporter shall promptly make and file with the criminal court (CPL §460.70) one transcript 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, 120 Wall Street, 28th Floor, New York, New York 10005, 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 180 days from the date of receipt of the complete record.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Sallie Manzanet-Daniels, Justice Presiding,
Judith J. Gische
Troy K. Webber
Peter H. Moulton, Justices.

-----X
In re McKenna Long & Aldridge, LLP,
Petitioner-Appellant,

-against-

Ironshore Specialty Insurance Company,
et al.,
Respondents-Respondents,

Edios Partners, LLC, et al.,
Respondents-Appellants.

M-8315
M-8362
Index No. 651497/17

-----X

Petitioner-appellant having moved for reargument of the decision and order of this Court, entered on October 17, 2019 (Appeal Nos. 10114/10114A/10114B/10114C/10114D/and 10114E) [M-8315],

And respondents-appellants having moved for reargument of, or in the alternative, for leave to appeal to the Court of Appeals, from the aforesaid decision and order of this Court, [M-8362],

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 denied.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Sallie Manzanet-Daniel, Justice Presiding,
Judith J. Gische
Troy K. Webber
Peter H. Moulton, Justices.

-----X
Randy Polanco Rodriguez,
Plaintiff-Appellant,

-against-

Antillana & Metro Supermarket Corp., M-8316
doing business as Antilla Superfood Index No. 301012/14
Supermarket, et al.,
Defendants-Respondents.

- - - - -
[And a Third-Party Action]
-----X

Plaintiff-appellant having moved for reargument of a certain portion of the decision and order of this Court, entered on October 29, 2019 (Appeal No. 10119),

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, upon reargument, the decision and order of this Court entered on October 29, 2019 (Appeal No. 10119) is hereby recalled and vacated and a new decision and order substituted therefor. (See Appeal No.10119 decided simultaneously herewith.)

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Sallie Manzanet-Daniels, Justice Presiding,
Barbara R. Kapnick
Anil C. Singh
Peter H. Moulton, Justices.

-----x
Dana Escoffier,
Plaintiff-Appellant,

-against-

M-8903
Index No. 151487/14

Amalgamated Bank,
Defendant-Respondent.

- - - - -
[And a third-party action.]

-----x
An appeal having been taken to this Court from an order of the Supreme Court, New York County, entered on or about November 15, 2017,

And an order of this Court having been entered on September 13, 2018 (M-3727), inter alia, denying plaintiff-appellant's motion for poor person relief, and granting an enlargement of time to perfect the appeal to the January 2019 Term,

And an order of this Court having been entered on November 27, 2018 (M-4843), denying plaintiff-appellant's motion for reconsideration of the order entered on September 13, 2018, and denying a further enlargement of time to perfect the appeal,

And an order of this Court having been entered on May 30, 2019 (M-1485), denying plaintiff-appellant's motion to vacate the dismissal of the appeal, and denying a further enlargement of time to perfect the appeal,

And an order of this Court having been entered on August 27, 2019 (M-3220), denying plaintiff-appellant's motion for renewal/reconsideration of the order of this Court entered on May 30, 2019 (M-1485),

And an order of this Court having been entered on November 26, 2019 (M-7414), denying renewal/reconsideration of the order of this Court entered on August 27, 2019 (M-3220)

And defendant-appellant having moved for clarification of the aforesaid orders of this Court,

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

It is ordered that the motion is denied.

ENTERED:


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 January 30, 2020.

Present - Hon. Sallie Manzanet-Daniels, Justice Presiding,
Ellen Gesmer
Jeffrey K. Oing
Peter H. Moulton
Lizbeth González, Justices.

-----x
1032-1034 Lexington Avenue, Ltd.,
Plaintiff-Respondent,

-against-

M-8314
Index No. 111895/10

Jackie Rogers,
Defendant-Appellant.

-----x

An appeal having been taken to this Court from the order of the Supreme Court, New York County, entered on or about July 16, 2019, which denied defendant's motion to vacate a default judgment entered on or about August 16, 2018,

And defendant-appellant having moved for a stay of all proceedings to enforce the judgment 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. The interim relief granted by the order of a Justice of this Court, dated November 7, 2019, is vacated.

ENTERED:


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 January 30, 2020.

PRESET: Hon. Sallie Manzanet-Daniels, Justice Presiding,
Ellen Gesmer
Jeffrey K. Oing
Peter H. Moulton
Lizbeth González, Justices.

-----X

In the Matter of a Proceeding for Visitation under Article 6 of the Family Court Act.

Kyriacos L.,
Petitioner-Respondent,

-against-

Hyunjung K.,
Respondent-Appellant.

-----X

CONFIDENTIAL

M-8375

Docket No. V-05676/18

Respondent-appellant having moved for leave to appeal to this Court from an order of the Family Court, New York County, entered on or about October 17, 2019, as amended on December 23, 2019, and for a stay said order, which temporarily suspended petitioner's child support obligations, retroactive to October 17, 2019, 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 granted.

ENTERED:


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 January 30, 2020.

PRESENT: Hon. Sallie Manzanet-Daniels, Justice Presiding,
Cynthia S. Kern
Jeffrey K. Oing
Anil C. Singh, Justices.

-----X
U.S. Bank National Association, etc.,
Plaintiff-Respondent,

-against-

M-8017
Index No. 650369/13

DLJ Mortgage Capital, Inc.,
Defendant-Appellant.
-----X

Defendant-appellant having moved for leave to appeal to the Court of Appeals from the decision and order of this Court, entered on October 10 2019 (Appeal No. 10036),

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

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

"Was the order of Supreme Court, as affirmed by the this Court, properly made?"

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

ENTERED:


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 January 30, 2020,

PRESENT: Hon. Judith J. Gische, Justice Presiding,
Barbara R. Kapnick
Cynthia S. Kern Justices.
Peter H. Moulton,

-----X
Harvey Rubin,
Plaintiff-Respondent,

-against-

M-8548
Index No. 653707/15

James Baumann, et al.,
Defendants-Appellants.
-----X

Defendants-appellants having moved for reargument of the decision and order of this Court, entered on November 7, 2019 (Appeal No. 10300),

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.

ENTERED:



CLERK

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

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

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

-against-

Daren Swift,

M-275
Ind. No. 2373-2019
Case No. 2020-00417

Defendant.
-----X

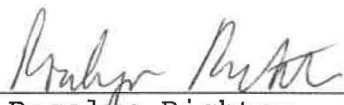
An application having been made by defendant, pursuant to CPL 245.70(6), for expedited review of a ruling of a Justice of the Supreme Court, Bronx County (George Villegas, J.), as set forth in an order of that court, dated January 9, 2020, which granted the People's motion for a protective order, and, upon review, to vacate the ruling,

Now, upon reading and filing the papers with respect to the application, it is

Ordered that the application is granted solely to the extent that defense counsel is permitted to give defendant a copy of the grand jury testimony and the victim's medical records. The other provisions of the protective order shall remain in effect. The court improvidently exercised its discretion in prohibiting defendant from receiving a copy of these materials. The People failed to establish good cause, based on the statutory factors in CPL 245.70(4), to withhold these materials from defendant. The

People's policy arguments about the general importance of grand jury secrecy and medical record confidentiality cannot be reconciled in this case with the statutory mandate that these materials be disclosed to defendant (CPL 245.20[1][b] [grand jury testimony], [1][j] [medical records]). There is insufficient record support for the People's claim that permitting defendant to have a copy of these materials will endanger the safety of a witness, or pose a risk of witness intimidation, harassment or embarrassment. Under the protective order issued by the court, defendant is permitted to review the materials. The People have failed to show that any greater risk exists by his having a copy of them. With respect to the medical records, the People have not requested that any particular parts be redacted.

Dated: January 27, 2020
New York, New York



Hon. Rosalyn Richter
Associate Justice

ENTERED: JAN 30 2020