

MOTION NO. (477/81) KA 13-00983. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V RICHARD GLOSS, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: CENTRA, J.P., FAHEY, PERADOTTO, SCONIERS, AND WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NOS. (1546-1547/98) KA 12-01290. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V FRANKLIN B. BROWN, DEFENDANT-APPELLANT. KA 12-01291. -
- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V FRANKLIN B. BROWN, DEFENDANT-APPELLANT. -- Motion for leave to appeal to the Court of Appeals dismissed (*see* CPL 450.90 [1]). PRESENT: SCUDDER, P.J., SMITH, PERADOTTO, LINDLEY, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (626/02) KA 00-03001. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ANTHONY YOUNGBLOOD, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, FAHEY, PERADOTTO, AND WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (905/02) KA 01-01982. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SHONDELL J. PAUL, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., LINDLEY, SCONIERS, VALENTINO, AND WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (1383/02) KA 01-01975. -- THE PEOPLE OF THE STATE OF NEW YORK,

RESPONDENT, V DERRICK D. MARTIN, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., FAHEY, LINDLEY, SCONIERS, AND VALENTINO, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (802/03) KA 01-00914. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SHARROWL DAVIS, ALSO KNOWN AS SHARROD DAVIS, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, FAHEY, CARNI, AND WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (1244/06) KA 05-01412. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V LAVIONE GAINNEY, ALSO KNOWN AS "SPRAY," DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, LINDLEY, VALENTINO, AND WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (1316/06) KA 04-02937. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CONSTANTINE L. JACKSON, DEFENDANT-APPELLANT. -- Motion for reargument and for other relief denied. PRESENT: SMITH, J.P., CENTRA, FAHEY, PERADOTTO, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (134/07) KA 06-00051. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V TOBIAS NICKELS, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., FAHEY, LINDLEY, SCONIERS, AND VALENTINO, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (1011/07) KA 06-00940. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V EDUNDABIRA O. OJO, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, FAHEY, LINDLEY, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (91/08) KA 01-00517. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MICHAEL RAMSEY, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: CENTRA, J.P., FAHEY, PERADOTTO, LINDLEY, AND VALENTINO, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (608/08) KA 05-01153. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V PRESTON BOYD, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, FAHEY, LINDLEY, AND VALENTINO, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (124/09) KA 06-03044. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CONSTANTINE JACKSON, DEFENDANT-APPELLANT. -- Motion for reargument and for other relief denied. PRESENT: SMITH, J.P., CENTRA, FAHEY, PERADOTTO, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (725/11) KA 09-02332. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V DARREN MCEATHRON, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., FAHEY, CARNI, LINDLEY, AND WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (994/11) KA 08-01129. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V TERRIS HANKS, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, LINDLEY, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NOS. (48/12 and 53/12) KA 08-00031. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JASON J. BROOKS, DEFENDANT-APPELLANT. (APPEAL NO. 1.) KA 08-00032. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JASON J. BROOKS, DEFENDANT-APPELLANT. (APPEAL NO. 2.) -- Motion for writ of error coram nobis granted. Memorandum: Defendant contends that he was denied effective assistance of appellate counsel because counsel failed to raise an issue on direct appeal that would have resulted in reversal, specifically, defendant was denied effective assistance of counsel because trial counsel failed to provide conflict-free representation. Upon our review of the motion papers, we conclude that the issue may have merit. Therefore, the orders of January 31, 2012 are vacated and this Court will consider the appeals de novo (*see People v LeFrois*, 151 AD2d 1046). Defendant is directed to file and serve his records and briefs with this Court on or before January 9, 2014. PRESENT: SCUDDER, P.J., SMITH, PERADOTTO, LINDLEY, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (123/12) TP 11-01675. -- IN THE MATTER OF WILLIAM EDWARDS, PETITIONER, V BRIAN FISCHER, COMMISSIONER, NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES, RESPONDENT. -- Motion for reargument denied.

PRESENT: SMITH, J.P., FAHEY, CARNI, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (748.1/12) KA 05-00172. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CYRIL WINEBRENNER, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: SCUDDER, P.J., CENTRA, FAHEY, PERADOTTO, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (1326/12) KA 10-02447. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MICHIAL E. FOSTER, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., FAHEY, CARNI, LINDLEY, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (210/13) CA 12-01733. -- NIKKI PAGAN, PLAINTIFF-RESPONDENT-APPELLANT, V FRANK RAFTER, DEFENDANT-APPELLANT-RESPONDENT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., PERADOTTO, CARNI, AND VALENTINO, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (302/13) CAF 12-00796. -- IN THE MATTER OF HEATHER A. COLE, PETITIONER-APPELLANT, V MICHAEL JAMES NOFRI, RESPONDENT-RESPONDENT. KELLY M. CORBETT, ESQ., ATTORNEY FOR THE CHILD, APPELLANT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., FAHEY, CARNI, SCONIERS, AND MARTOCHE, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (309/13) CA 12-01766. -- IN THE MATTER OF ARBITRATION BETWEEN ONTARIO COUNTY AND ONTARIO COUNTY SHERIFF, PETITIONERS-APPELLANTS, AND ONTARIO COUNTY SHERIFF'S UNIT 7850-01, CSEA LOCAL 1000, AFSCME, AFL-CIO, RESPONDENT-RESPONDENT. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., FAHEY, CARNI, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (333/13) CA 12-01631. -- RICHARD WESTGATE, PLAINTIFF-APPELLANT, V DAVID S. BRODERICK, AS ADMINISTRATOR OF THE ESTATE OF THOMAS D. HOGAN, III, KAREN HOGAN, DEFENDANTS-RESPONDENTS, ET AL., DEFENDANT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., FAHEY, SCONIERS, AND VALENTINO, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (355/13) CA 12-01574. -- CHRISTOPHER HAMILTON, PLAINTIFF-APPELLANT, V JOHN MILLER, DAVID MILLER, JULES MUSINGER, DOUG MUSINGER AND SINGER ASSOCIATES, DEFENDANTS-RESPONDENTS. -- Motion to resettle and clarify denied. Cross motion to resettle and modify denied. PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, VALENTINO, AND WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (372/13) CA 12-01132. -- IN THE MATTER OF GREEN THUMB LAWN CARE, INC. AND JOHN KNUTSON, PH.D., PETITIONERS-PLAINTIFFS-APPELLANTS, V PETER M. IWANOWICZ, ACTING COMMISSIONER, AND NEW YORK STATE DEPARTMENT OF

ENVIRONMENTAL CONSERVATION, RESPONDENTS-DEFENDANTS-RESPONDENTS. (APPEAL NO. 1.) -- Motion for leave to appeal to the Court of Appeals denied.
PRESENT: SCUDDER, P.J., SMITH, CENTRA, CARNI, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (373/13) CA 12-01133. -- IN THE MATTER OF GREEN THUMB LAWN CARE, INC. AND JOHN KNUTSON, PH.D., PETITIONERS-APPELLANTS, V NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, RESPONDENT-RESPONDENT. (APPEAL NO. 2.) -- Motion for leave to appeal to the Court of Appeals denied.
PRESENT: SCUDDER, P.J., SMITH, CENTRA, CARNI, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (378/13) CA 11-02445. -- PATRICIA CURTO, PLAINTIFF-APPELLANT, V ZITTEL'S DAIRY FARM, JOHN ZITTEL, SANDY ZITTEL, THOMAS DEXTER AND JEFFREY GASPER, DEFENDANTS-RESPONDENTS. (APPEAL NO. 1.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., SMITH, CENTRA, CARNI, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (379/13) CA 11-02446. -- PATRICIA CURTO, PLAINTIFF-APPELLANT, V ZITTEL'S DAIRY FARM, JOHN ZITTEL, SANDY ZITTEL, THOMAS DEXTER AND JEFFREY GASPER, DEFENDANTS-RESPONDENTS. (APPEAL NO. 2.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., SMITH, CENTRA, CARNI, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (380/13) CA 11-02447. -- PATRICIA CURTO, PLAINTIFF-APPELLANT, V ZITTEL'S DAIRY FARM, JOHN ZITTEL, SANDY ZITTEL, THOMAS DEXTER AND JEFFREY GASPER, DEFENDANTS-RESPONDENTS. (APPEAL NO. 3.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., SMITH, CENTRA, CARNI, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (381/13) CA 12-00244. -- PATRICIA CURTO, PLAINTIFF-APPELLANT, V ZITTEL'S DAIRY FARM, JOHN ZITTEL, SANDY ZITTEL, THOMAS DEXTER AND JEFFREY GASPER, DEFENDANTS-RESPONDENTS. (APPEAL NO. 4.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., SMITH, CENTRA, CARNI, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (433/13) TP 12-02130. -- IN THE MATTER OF JAYSON BULMAHN, PETITIONER, V NEW YORK STATE OFFICE OF MEDICAID INSPECTOR GENERAL AND NEW YORK STATE DEPARTMENT OF HEALTH, RESPONDENTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., PERADOTTO, LINDLEY, AND VALENTINO, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (453/13) CA 12-01487. -- GERALD SCHMITT, PLAINTIFF-APPELLANT, V SANDRA SCHMITT, DEFENDANT-RESPONDENT. (APPEAL NO. 1.) -- Motion for reargument or amendment denied. PRESENT: CENTRA, J.P., FAHEY, CARNI, AND WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (478/13) CA 12-01827. -- SUE/PERIOR CONCRETE & PAVING, INC., PLAINTIFF-RESPONDENT, V LEWISTON GOLF COURSE CORPORATION, SENECA NIAGARA FALLS GAMING CORPORATION, SENECA GAMING CORPORATION, JEFFREY L. GILL, MARK I. HALFTOWN, GLORIA HERON, MAURICE A. JOHN, SR., MICHAEL L. JOHN, KAREN KARSTEN, INA K. LOCKE, ROBERT E. MELE, RICHARD K. NEPHEW, MARIBEL PRINTUP, COCHISE N. REDEYE, GARY SANDEN, KEVIN W. SENECA, BARRY E. SNYDER, SR., AND STEVE TOME, DEFENDANTS-APPELLANTS, NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY, DEFENDANT-RESPONDENT, ET AL., DEFENDANTS. -- Motion for leave to appeal to the Court of Appeals granted. PRESENT: PERADOTTO, J.P., LINDLEY, VALENTINO, AND WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (519/13) CA 12-01962. -- MARC A. NICOMETI, PLAINTIFF-RESPONDENT, V THE VINEYARDS OF FREDONIA, LLC, WINTER-PFOHL, INC., DEFENDANTS-APPELLANTS, ET AL., DEFENDANTS. SCOTT PFOHL, ET AL., THIRD-PARTY PLAINTIFFS, V WESTERN NEW YORK PLUMBING-ELLCOTT PLUMBING AND REMODELING CO., INC., THIRD-PARTY DEFENDANT-APPELLANT. -- Motions and cross motions for reargument denied. Motions and cross motions for leave to appeal to the Court of Appeals granted. PRESENT: SMITH, J.P., FAHEY, CARNI, SCONIERS, AND WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (573/13) KAH 12-00566. -- THE PEOPLE OF THE STATE OF NEW YORK EX REL. WILLIAM CRENSHAW, PETITIONER-APPELLANT, V HAROLD GRAHAM, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY, RESPONDENT-RESPONDENT. --

Motion for leave to appeal to the Court of Appeals denied. PRESENT:
SCUDDER, P.J., SMITH, CENTRA, AND LINDLEY, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (576/13) CAF 12-01093. -- IN THE MATTER OF CLARENCE R. BROWN,
PETITIONER-APPELLANT, V SHANNON TERWILLIGER AND MARY ANN TERWILLIGER,
RESPONDENTS-RESPONDENTS. IN THE MATTER OF CLARENCE R. BROWN,
PETITIONER-APPELLANT, V KELLY FINNERTY, RESPONDENT-RESPONDENT. -- Motion
for leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER,
P.J., SMITH, CENTRA, AND LINDLEY, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (580/13) CA 12-02297. -- IN THE MATTER OF JON M. LADELFA, AS
ADMINISTRATOR OF THE GOODS, CHATTELS AND CREDITS OF CHARLES MICHAEL
LADELFA, DECEASED, PETITIONER-RESPONDENT. GERALD A. CONIGLIO,
OBJECTANT-APPELLANT. -- Motion for leave to appeal to the Court of Appeals
denied. PRESENT: SCUDDER, P.J., CENTRA, LINDLEY, AND VALENTINO, JJ.
(Filed Sept. 27, 2013.)

MOTION NO. (585/13) CA 13-00013. -- ROBERT M. PAYTON, PLAINTIFF-RESPONDENT,
V 5391 TRANSIT ROAD, LLC, AND CARROLS CORPORATION, DEFENDANTS-APPELLANTS.
CARROLS, LLC, A WHOLLY OWNED SUBSIDIARY OF CARROLS CORPORATION, THIRD-PARTY
PLAINTIFF-RESPONDENT-APPELLANT, V JOSEPH H. TUDOR, DOING BUSINESS AS JM
ENTERPRISES, THIRD-PARTY DEFENDANT-APPELLANT-RESPONDENT. -- Motion for
reargument denied. PRESENT: SCUDDER, P.J., SMITH, CENTRA, AND LINDLEY,

JJ. (Filed Sept. 27, 2013.)

MOTION NO. (587/13) CA 12-02172. -- DIPIZIO CONSTRUCTION COMPANY, INC.,
PLAINTIFF-APPELLANT, V NIAGARA FRONTIER TRANSPORTATION AUTHORITY,
DEFENDANT-RESPONDENT. (APPEAL NO. 1.) -- Motions for reargument and leave
to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., SMITH,
CENTRA, AND LINDLEY, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (590/13) TP 12-02305. -- IN THE MATTER OF JAMES M. WEST, ALSO
KNOWN AS WESS, PETITIONER, V MICHAEL SHEAHAN, SUPERINTENDENT, FIVE POINTS
CORRECTIONAL FACILITY, RESPONDENT. -- Motion for permission to appeal
denied. PRESENT: SMITH, J.P., FAHEY, CARNI, VALENTINO, AND WHALEN, JJ.
(Filed Sept. 27, 2013.)

MOTION NO. (601/13) CA 12-02380. -- IN THE MATTER OF NORSE PIPELINE, LLC,
PETITIONER-APPELLANT, V TOWN OF BUSTI, TOWN OF FRENCH CREEK, TOWN OF NORTH
HARMONY AND TOWN OF SHERMAN, ET AL., RESPONDENTS-RESPONDENTS. (APPEAL NO.
1.) -- Motion for reargument or leave to appeal to the Court of Appeals
denied. PRESENT: SMITH, J.P., FAHEY, CARNI, VALENTINO, AND WHALEN, JJ.
(Filed Sept. 27, 2013.)

MOTION NO. (602/13) CA 12-02058. -- KELLEY BUTTERFIELD AND DOUGLAS
BUTTERFIELD, PLAINTIFFS-RESPONDENTS, V JAMES R. CAPUTO, M.D., JAMES R.

CAPUTO, M.D., P.C., DEFENDANTS-APPELLANTS-RESPONDENTS, AND CROUSE HOSPITAL, DEFENDANT-RESPONDENT-APPELLANT. -- Motion for leave to appeal to the Court of Appeals denied. All concur except FAHEY, J., who dissents and votes to grant leave to appeal to the Court of Appeals. PRESENT: SMITH, J.P., FAHEY, CARNI, VALENTINO, AND WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (606/13) CA 12-02381. -- IN THE MATTER OF NORSE PIPELINE, LLC, PETITIONER-APPELLANT, V TOWN OF BUSTI, TOWN OF FRENCH CREEK, TOWN OF NORTH HARMONY AND TOWN OF SHERMAN, ET AL., RESPONDENTS-RESPONDENTS. (APPEAL NO. 2.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., FAHEY, CARNI, VALENTINO, AND WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (625/13) CA 13-00036. -- JOHN W. GRACE, PLAINTIFF-RESPONDENT, V MICHAEL R. LAW, PHILLIPS LYTLE, LLP, ROBERT L. BRENNA, JR., AND BRENNA, BRENNA & BOYCE, PLLC, DEFENDANTS-APPELLANTS. -- Motion for leave to appeal to the Court of Appeals granted. PRESENT: SCUDDER, P.J., PERADOTTO, LINDLEY, SCONIERS, AND WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (651/13) CA 12-01858. -- DASZ, INC., PLAINTIFF-APPELLANT, V MERITOCRACY VENTURES, LTD., ARTHUR N. BAILEY, U.S. COMMERCIAL HABITAT CO., DEFENDANTS-RESPONDENTS, ET AL., DEFENDANTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P.,

FAHEY, CARNI, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (653/13) CA 12-02356. -- EVELYN M. GRAY, PLAINTIFF-APPELLANT, V ASTON B. WILLIAMS, M.D., DEFENDANT-RESPONDENT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., FAHEY, CARNI, AND SCONIERS, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (662/13) TP 12-02388. -- IN THE MATTER OF DAVID REDMOND, PETITIONER, V BRIAN FISCHER, COMMISSIONER, NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, RESPONDENT. -- Motion for reargument or reconsideration denied. PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, AND VALENTINO, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (680/13) CA 12-02001. -- FREDERICK D. TAYLOR, PLAINTIFF-RESPONDENT, V DANRICH HOMES, INC., DEFENDANT-APPELLANT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, AND VALENTINO, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (724/13) CA 12-02207. -- PATRICIA J. CURTO, PLAINTIFF-APPELLANT, V NEW YORK STATE COLLEGE OF VETERINARY MEDICINE AT CORNELL, CORNELL UNIVERSITY, NELSON ROTH, VALERIE CROSS, HUNTER RAWLINGS, III, DONALD SMITH, KATHERINE EDMONDSON, LISA CLARK, SUSAN STEVENS SUAREZ, LINDA ALLEN MIZER,

WENDY TARLOW, WALTER LYNN AND DANILEE POPPENSIEK, DEFENDANTS-RESPONDENTS, ET AL., DEFENDANTS. (APPEAL NO. 1.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., FAHEY, CARNI, VALENTINO, AND WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (725/13) CA 12-02209. -- PATRICIA J. CURTO, PLAINTIFF-APPELLANT, V NEW YORK STATE COLLEGE OF VETERINARY MEDICINE AT CORNELL, CORNELL UNIVERSITY, NELSON ROTH, VALERIE CROSS, HUNTER RAWLINGS, III, DONALD SMITH, KATHERINE EDMONDSON, LISA CLARK, SUSAN STEVENS SUAREZ, LINDA ALLEN MIZER, WENDY TARLOW, WALTER LYNN AND DANILEE POPPENSIEK, DEFENDANTS-RESPONDENTS, ET AL., DEFENDANTS. (APPEAL NO. 2.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., FAHEY, CARNI, VALENTINO, AND WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (750/13) CA 12-01684. -- APRYL CALACI, PLAINTIFF-RESPONDENT, V ALLIED INTERSTATE, INC., ALLIED INTERSTATE, LLC AND IQOR US INC., DEFENDANTS-APPELLANTS. (APPEAL NO. 2.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., CENTRA, FAHEY, CARNI, AND LINDLEY, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (753/13) KA 03-01616. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JAMES PENNINGTON, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: CENTRA, J.P., SCONIERS, VALENTINO, AND

WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (757/13) KA 10-00178. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MARQUIS STANLEY, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: CENTRA, J.P., PERADOTTO, SCONIERS, VALENTINO, AND WHALEN, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (789/13) KA 10-00056. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V BLAIR CHATTLEY, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: CENTRA, J.P., FAHEY, PERADOTTO, AND LINDLEY, JJ. (Filed Sept. 27, 2013.)

MOTION NO. (813/13) KA 12-01270. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V RUSSELL YOUNG, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: SMITH, J.P., FAHEY, PERADOTTO, CARNI, AND LINDLEY, JJ. (Filed Sept. 27, 2013.)

KA 11-00446. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V YUSEF BROWN, DEFENDANT-APPELLANT. -- Motion to dismiss granted. Memorandum: The matter is remitted to Onondaga County Court to vacate the judgment of conviction and dismiss the indictment either sua sponte or on application of either the District Attorney or the counsel for defendant (*see People v Matteson*, 75 NY2d 745). PRESENT: SCUDDER, P.J., SMITH, CENTRA, FAHEY, AND PERADOTTO, JJ. (Filed Sept. 27, 2013.)

KAH 11-01160. -- THE PEOPLE OF THE STATE OF NEW YORK EX REL. WALTER ROACH, PETITIONER-APPELLANT, V DONALD SAWYER, EXECUTIVE DIRECTOR CENTRAL NEW YORK PSYCHIATRIC CENTER, RESPONDENT-RESPONDENT. -- Judgment unanimously affirmed. Counsel's motion to be relieved of assignment granted (see *People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Judgment [denominated order] of Supreme Court, Oneida County, Bernadette T. Clark, J. - Habeas Corpus). PRESENT: SCUDDER, P.J., FAHEY, SCONIERS, AND VALENTINO, JJ. (Filed Sept. 27, 2013.)

KA 12-00927. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V WILBERT WRIGHT, DEFENDANT-APPELLANT. -- Judgment unanimously affirmed. Counsel's motion to be relieved of assignment granted (see *People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Judgment of Erie County Court, Michael L. D'Amico, J. - Attempted Criminal Possession of a Controlled Substance, 4th Degree). PRESENT: SCUDDER, P.J., FAHEY, SCONIERS, AND VALENTINO, JJ. (Filed Sept. 27, 2013.)