

MOTION NO. (162/20) KA 19-00074. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SAMMY L. BROWN, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: LINDLEY, J.P., BANNISTER, SMITH, NOWAK, AND KEANE, JJ. (Filed Mar. 14, 2025.)

MOTION NO. (237/24) KA 23-00841. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V STEFAN D. NICHOLS, DEFENDANT-APPELLANT. -- Motion for permission to file and serve a supplemental record on appeal, to vacate this Court's memorandum and order entered May 3, 2024 (*People v Nichols*, 227 AD3d 1443 [4th Dept 2024]), and for entry of a new memorandum and order after consideration of the supplemental record, be and the same hereby is granted to the extent that defendant is granted permission to file and serve a supplemental record on appeal containing County Court's complete decision and order dated April 11, 2023, this Court's memorandum and order entered May 3, 2024 (*People v Nichols*, 227 AD3d 1443 [4th Dept 2024]) is vacated, and the following memorandum and order is substituted therefor:

Appeal from an order of the Monroe County Court (Michael L. Dollinger, J.), dated April 11, 2023. The order determined that defendant is a level three risk pursuant to the Sex Offender Registration Act.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: On appeal from an order determining that he is a level three risk pursuant to the Sex Offender Registration Act ([SORA] Correction Law § 168 *et seq.*), defendant contends that County Court should have granted his request for a downward departure from risk level three to risk

level two. Even assuming, arguendo, that defendant adequately identified mitigating circumstances that are, as a matter of law, of a kind or to a degree not adequately taken into account by the Guidelines and proved their existence by a preponderance of the evidence (see generally *People v Gillotti*, 23 NY3d 841, 861 [2014]), we conclude, based upon the totality of the circumstances, that a downward departure is not warranted (see *People v Burgess*, 191 AD3d 1256, 1257 [4th Dept 2021]; see generally *Gillotti*, 23 NY3d at 861). PRESENT: WHALEN, P.J., LINDLEY, OGDEN, NOWAK, AND DELCONTE, JJ. (Filed Mar. 14, 2025.)

**MOTION NO. (628/24) OP 24-00449. -- IN THE MATTER OF TRANSFORM SALECO, LLC, PETITIONER, V ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY, RESPONDENT. --** Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: WHALEN, P.J., CURRAN, GREENWOOD, NOWAK, AND KEANE, JJ. (Filed Mar. 14, 2025.)

**MOTION NO. (628.1/24) OP 24-00426. -- IN THE MATTER OF 3649 ERIE, LLC, PETITIONER, V ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY, AND OHB REDEV, LLC, RESPONDENTS. --** Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: WHALEN, P.J., CURRAN, GREENWOOD, NOWAK, AND KEANE, JJ. (Filed Mar. 14, 2025.)

**MOTION NO. (770/24) CA 23-01234. -- IN THE MATTER OF MARGUERITE A. ROSS, PETITIONER-APPELLANT, V VILLAGE OF FAYETTEVILLE, VILLAGE OF FAYETTEVILLE**

**PLANNING BOARD, FOUBU ENVIRONMENTAL SERVICES, LLC, AND NORTHWOOD REAL ESTATE VENTURES, LLC, RESPONDENTS-RESPONDENTS.** -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: BANNISTER, J.P., MONTOUR, SMITH, AND KEANE, JJ. (Filed Mar. 14, 2025.)

**MOTION NO. (820/24) CA 24-00162.** -- **PETER F. VERHOEF AND OLGA VERHOEF, PLAINTIFFS-APPELLANTS, V PAUL DEAN, DEFENDANT-RESPONDENT.** -- Motion for leave to appeal to the Court of Appeals dismissed as untimely. PRESENT: LINDLEY, J.P., CURRAN, BANNISTER, NOWAK, AND HANNAH, JJ. (Filed Mar. 14, 2025.)

**MOTION NO. (822/24) OP 23-01765.** -- **IN THE MATTER OF TONY KIRIK, PETITIONER, V DEBRA A. MARTIN, ACTING JUSTICE OF NEW YORK STATE SUPREME COURT, THOMAS C. WILMOT, SR., THOMAS C. WILMOT, JR., LORETTA WILMOT CONROY, COUNTY OF MONROE, JANE A. HUNTER AND MARY H. PHILLIPS, RESPONDENTS.** -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: LINDLEY, J.P., CURRAN, BANNISTER, NOWAK, AND HANNAH, JJ. (Filed Mar. 14, 2025.)

**MOTION NO. (823/24) OP 24-00645.** -- **IN THE MATTER OF JHK DEVELOPMENT, LLC, PETITIONER, V TOWN OF SALINA, TOWN OF SALINA TOWN BOARD AND UR-BAN VILLAGES PFA, LLC, RESPONDENTS.** -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: LINDLEY, J.P., CURRAN, BANNISTER, NOWAK, AND HANNAH, JJ. (Filed Mar. 14, 2025.)

KA 24-00673. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V THOMAS M. SUNDERLAND, DEFENDANT-APPELLANT. -- Judgment unanimously affirmed. Counsel's motion to be relieved of assignment granted (*see People v Crawford*, 71 AD2d 38 [4th Dept 1979]). (Appeal from Judgment of Cayuga County Court, Jon E. Budelmann, A.J. - Criminal Contempt, 1st Degree). PRESENT: LINDLEY, J.P., CURRAN, OGDEN, GREENWOOD, AND HANNAH, JJ. (Filed Mar. 14, 2025.)