

**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 denied. PRESENT: WHALEN, P.J., SMITH, CENTRA, PERADOTTO, AND CURRAN, JJ. (Filed Apr. 28, 2017.)

**MOTION NO. (358/10) KA 07-01557. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CHAD T. HOLLOWAY, DEFENDANT-APPELLANT.** -- Motion for reargument denied. PRESENT: WHALEN, P.J., PERADOTTO, LINDLEY, TROUTMAN, AND SCUDDER, JJ. (Filed Apr. 28, 2017.)

**MOTION NO. (959/10) KA 09-01166. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V TROY L. KENNEDY, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., SMITH, NEMOYER, CURRAN, AND TROUTMAN, JJ. (Filed Apr. 28, 2017.)

**MOTION NO. (613/11) KA 09-02049. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MELVIN BOGAR, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, NEMOYER, AND CURRAN, JJ. (Filed Apr. 28, 2017.)

**MOTION NO. (1176/11) KA 07-01186. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V DON PETERKIN, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., PERADOTTO, CURRAN, TROUTMAN, AND SCUDDER, JJ. (Filed Apr. 28, 2017.)

MOTION NO. (250/14) KA 11-01070. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ANTWAN MYLES, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, CARNI, AND NEMOYER, JJ. (Filed Apr. 28, 2017.)

MOTION NO. (1005/16) KA 14-01971. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V DEVON SCOTT, ALSO KNOWN AS "GHOST", DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: CENTRA, J.P., CARNI, LINDLEY, CURRAN, AND SCUDDER, JJ. (Filed Apr. 28, 2017.)

MOTION NO. (1104/16) CA 16-00663. -- INTERNATIONAL UNION OF PAINTERS & ALLIED TRADES, DISTRICT COUNCIL NO. 4, BY ITS SECRETARY-TREASURER, MARK STEVENS, INTERNATIONAL UNION OF PAINTERS & ALLIED TRADES, FINISHING TRADES INSTITUTE OF WESTERN & CENTRAL NEW YORK, BY ITS TRUSTEES MARK STEVENS, GREGORY STONER, ROBERT SINOPOLI, JEFFREY CARROLL, TODD ROTUNNO, MICHAEL DEMS, DANIEL LAFRANCE, DAN JACKSON, DOMINIC ZIRILLI, TIM MCCLUSKEY, JEFF STURTZ, FRANK HOSEK AND MARVIN PAIGE, FORNO ENTERPRISES, INC., TGR ENTERPRISES, INC., HOGAN GLASS, LLC, AJAY GLASS & MIRROR CO., THOMAS A. JERGE, AS A CITIZEN TAXPAYER, PAUL J. LEONE, AS A CITIZEN TAXPAYER, CHRISTOPHER J. POWERS, AS AN APPRENTICE ENROLLED IN PAINTERS DISTRICT COUNCIL NO. 4 GLAZIER APPRENTICESHIP PROGRAM, AND RACHEL TERHART, AS A FORMER APPRENTICE ENROLLED IN PAINTERS DISTRICT COUNCIL NO. 4 GLAZIER APPRENTICESHIP PROGRAM, PLAINTIFFS-APPELLANTS, V NEW YORK STATE DEPARTMENT

OF LABOR, MARIO MUSOLINO, ACTING COMMISSIONER, NEW YORK STATE DEPARTMENT OF LABOR AND CHRISTOPHER ALUND, DIRECTOR, BUREAU OF PUBLIC WORKS, A DIVISION OF NEW YORK STATE DEPARTMENT OF LABOR, DEFENDANTS-RESPONDENTS. -- Motion for leave to appeal to the Court of Appeals granted. PRESENT: WHALEN, P.J., CENTRA, LINDLEY, NEMOYER, AND TROUTMAN, JJ. (Filed Apr. 28, 2017.)

MOTION NO. (1172/16) CA 16-00597. -- GORDON J. KING AND BRENDA KING, CLAIMANTS-RESPONDENTS, V NIAGARA FALLS WATER AUTHORITY AND NIAGARA FALLS WATER BOARD, RESPONDENTS-APPELLANTS. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: CARNI, J.P., LINDLEY, DEJOSEPH, CURRAN, AND TROUTMAN, JJ. (Filed Apr. 28, 2017.)

MOTION NO. (1176/16) CA 16-01094. -- BRANDI HARDY, ET AL., PLAINTIFFS, V THOMAS KULWICKI, CARLO V. MADONIA, JR., KAREN MADONIA, ET AL., DEFENDANTS. CARLO V. MADONIA, JR., AND KAREN MADONIA, THIRD-PARTY PLAINTIFFS-RESPONDENTS-APPELLANTS, V HARLEYSVILLE WORCESTER INSURANCE COMPANY, THIRD-PARTY DEFENDANT-APPELLANT-RESPONDENT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CARNI, J.P., LINDLEY, DEJOSEPH, AND TROUTMAN, JJ. (Filed Apr. 28, 2017.)

MOTION NO. (1221/16) CA 16-00090. -- IN THE MATTER OF CITY OF ROME, PETITIONER-RESPONDENT, V BOARD OF ASSESSORS AND/OR ASSESSOR OF TOWN OF LEWIS, BOARD OF ASSESSMENT REVIEW, ADIRONDACK CENTRAL SCHOOL DISTRICT AND

COUNTY OF LEWIS, RESPONDENTS-APPELLANTS. (APPEAL NO. 2.) -- Motion for reargument denied. PRESENT: SMITH, J.P., LINDLEY, DEJOSEPH, NEMOYER, AND TROUTMAN, JJ. (Filed Apr. 28, 2017.)

MOTION NO. (1224.2/16) CA 16-01425. -- IN THE MATTER OF ISKALO 5000 MAIN LLC AND ISKALO 5010 MAIN LLC, PETITIONERS-RESPONDENTS, V TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY, RESPONDENT-APPELLANT. COUNTY OF ERIE, INTERVENOR-RESPONDENT-APPELLANT. (APPEAL NO. 2.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., LINDLEY, DEJOSEPH, NEMOYER, AND TROUTMAN, JJ. (Filed Apr. 28, 2017.)

MOTION NO. (1308/16) CA 16-00508. -- JOSEPH P. GALLAGHER, JR. AND KELLYANN E. GALLAGHER, PLAINTIFFS-APPELLANTS, V DOMINIC RUZZINE, JR., ANDREA RUZZINE, TIMOTHY R. MALCHOW, LORA L. MALCHOW, ROBITAILLE RELOCATION CENTER, INC., SARAH ROBITAILLE, REALTY USA.COM AND GERALDINE BROSKY, DEFENDANTS-RESPONDENTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: WHALEN, P.J., CENTRA, LINDLEY, DEJOSEPH, AND SCUDDER, JJ. (Filed Apr. 28, 2017.)

MOTION NO. (1310/16) CA 16-00548. -- WORKERS' COMPENSATION BOARD OF STATE OF NEW YORK, PLAINTIFF-RESPONDENT, V OLD LAMSON STATION, INC., DEFENDANT-APPELLANT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: WHALEN, P.J., CENTRA, LINDLEY,

DEJOSEPH, AND SCUDDER, JJ. (Filed Apr. 28, 2017.)

**MOTION NO. (32/17) KA 14-00996. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ROMMEL BURDINE, ALSO KNOWN AS ROMELL BURDINE, DEFENDANT-APPELLANT.** -- Motion for reargument granted in part and, upon reargument, the memorandum and order entered February 10, 2017 (147 AD3d 1471) is amended by deleting the fourth sentence of the second paragraph of the memorandum, and by deleting the first sentence of the second paragraph of the memorandum, and replacing the first sentence with the following sentence: "We conclude, however, that the error is harmless inasmuch as the evidence of defendant's guilt is overwhelming, and there is no reasonable possibility that the admission of the text messages might have contributed to defendant's conviction (*see generally People v Crimmins*, 36 NY2d 230, 237)." PRESENT: SMITH, J.P., DEJOSEPH, NEMOYER, TROUTMAN, AND SCUDDER, JJ. (Filed Apr. 28, 2017.)

**MOTION NO. (45/17) CA 16-00938. -- ASHLEY B. JONES, PLAINTIFF-APPELLANT, V ERIC R. SWEDE, DEFENDANT, AND DARRYLE R. SWEDE, DEFENDANT-RESPONDENT.** -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., DEJOSEPH, NEMOYER, TROUTMAN, AND SCUDDER, JJ. (Filed Apr. 28, 2017.)

MOTION NO. (105/17) CA 16-00833. -- IN THE MATTER OF DIXIE D. LEMMON AND CONCERNED CITIZENS OF SENECA COUNTY, INC., PETITIONERS-APPELLANTS, V SENECA MEADOWS, INC., JAMES CLEERE, SOLELY IN HIS CAPACITY AS TOWN OF WATERLOO CODE ENFORCEMENT OFFICER AND TOWN OF WATERLOO ZONING BOARD OF APPEALS, RESPONDENTS-RESPONDENTS. -- Motions for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., LINDLEY, NEMOYER, CURRAN, AND TROUTMAN, JJ. (Filed Apr. 28, 2017.)

MOTION NO. (141/17) TP 16-01171. -- IN THE MATTER OF KENNETH JAMES, PETITIONER, V TINA M. STANFORD, CHAIRWOMAN, NEW YORK STATE BOARD OF PAROLE AND SUSAN KICKBUSH, SUPERINTENDENT, GOWANDA CORRECTIONAL FACILITY, RESPONDENTS. -- Motion for reargument denied. PRESENT: CENTRA, J.P., PERADOTTO, CURRAN, TROUTMAN, AND SCUDDER, JJ. (Filed Apr. 28, 2017.)

MOTION NO. (203/17) CAF 15-01632. -- IN THE MATTER OF MEREDITH GORTON, PETITIONER-RESPONDENT, V JEREMY V. INMAN, RESPONDENT-APPELLANT. -- Motion for reargument denied. PRESENT: PERADOTTO, J.P., CARNI, LINDLEY, CURRAN, AND SCUDDER, JJ. (Filed Apr. 28, 2017.)

KA 16-00857. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V BRIDGETTE A. MCGARVIN, DEFENDANT-APPELLANT. -- Judgment unanimously affirmed. Counsel's motion to be relieved of assignment granted (see *People v Crawford*, 71 AD2d 38). (Appeal from a Judgment of Niagara County

Court, Honorable Sara Sheldon, J. - Violation of Probation). PRESENT:  
WHALEN, P.J., CARNI, NEMOYER, CURRAN, AND TROUTMAN, JJ. (Filed Apr. 28,  
2017.)