

**MOTION NO. (102/85) KA 02-01300. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JAMES PINKY BROWN, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, CENTRA, GREEN, AND PINE, JJ. (Filed Apr. 30, 2010.)**

**MOTION NO. (1277/97) KA 10-00320. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MICHAEL HILL, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., MARTOCHE, CARNI, LINDLEY, AND GREEN, JJ. (Filed Apr. 30, 2010.)**

**MOTION NO. (1104/07) KA 05-02034. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JERRY L. JOHNSON, DEFENDANT-APPELLANT. -- Motion for reconsideration denied. PRESENT: SMITH, J.P., CENTRA, FAHEY, GREEN, AND GORSKI, JJ. (Filed Apr. 30, 2010.)**

**MOTION NO. (1125/07) KA 06-01069. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SHAWN E. AKIN, DEFENDANT-APPELLANT. -- Motion for reargument, or in the alternative, leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., FAHEY, GREEN, AND PINE, JJ. (Filed Apr. 30, 2010.)**

**MOTION NOS. (101-102/09) KA 05-00310. -- THE PEOPLE OF THE STATE OF NEW**

YORK, RESPONDENT, V CHARNELL MOSLEY, DEFENDANT-APPELLANT. (APPEAL NO. 1.)  
KA 07-00892. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CHARNELL  
MOSLEY, DEFENDANT-APPELLANT. (APPEAL NO. 2.) -- Motion for writ of error  
coram nobis denied. PRESENT: SCUDDER, P.J., MARTOCHE, CENTRA, GREEN, AND  
GORSKI, JJ. (Filed Apr. 30, 2010.)

MOTION NO. (775/09) KA 07-02013. -- THE PEOPLE OF THE STATE OF NEW YORK,  
RESPONDENT, V JACK ANDERSON, DEFENDANT-APPELLANT. -- Motion for writ of  
error coram nobis denied. PRESENT: SCUDDER, P.J., FAHEY, PERADOTTO,  
CARNI, AND GREEN, JJ. (Filed Apr. 30, 2010.)

MOTION NO. (1225/09) CA 09-00612. -- CRYSTAL RUN NEWCO, LLC,  
PLAINTIFF-RESPONDENT-APPELLANT, V UNITED PET SUPPLY, INC., DOING BUSINESS  
AS THE PET COMPANY, DEFENDANT-APPELLANT-RESPONDENT. -- Motion for  
reargument or leave to appeal to the Court of Appeals denied. PRESENT:  
SMITH, J.P., FAHEY, CARNI, PINE, AND GORSKI, JJ. (Filed Apr. 30, 2010.)

MOTION NO. (1315/09) KA 08-00629. -- THE PEOPLE OF THE STATE OF NEW YORK,  
RESPONDENT, V CHRISTOPHER E. MARCH, DEFENDANT-APPELLANT. -- Motion for writ  
of error coram nobis denied. PRESENT: MARTOCHE, J.P., SMITH, PERADOTTO,  
GREEN, AND PINE, JJ. (Filed Apr. 30, 2010.)

MOTION NO. (1354/09) CA 09-00229. -- MICHAEL PASSUCCI,

PLAINTIFF-RESPONDENT, V THE HOME DEPOT, INC., THE HOME DEPOT SPECIAL SERVICES, INC., MICHAEL BLAIR AND MICHAEL KEITH NAZAR,

DEFENDANTS-APPELLANTS. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., FAHEY, CARNI, AND PINE, JJ. (Filed Apr. 30, 2010.)

MOTION NO. (1365/09) CA 09-00977. -- IN THE MATTER OF MARK A. MATTESON, PETITIONER-APPELLANT, V NEWFANE CENTRAL SCHOOL DISTRICT BOARD OF EDUCATION, RESPONDENT-RESPONDENT. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., MARTOCHE, CENTRA, AND PERADOTTO, JJ. (Filed Apr. 30, 2010.)

MOTION NO. (1573/09) CA 09-01144. -- DEBORAH HIMMELSBACH, PLAINTIFF-RESPONDENT, V PATRICK GEORGE, DEFENDANT-APPELLANT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., PERADOTTO, GREEN, AND PINE, JJ. (Filed Apr. 30, 2010.)

MOTION NO. (1577/09) CA 08-01863. -- CHARLES R. MCLAUGHLIN AND CHERYL MCLAUGHLIN, PLAINTIFFS-RESPONDENTS, V MIDROX INSURANCE COMPANY, DEFENDANT-APPELLANT, RONALD D. BLODGETT, DAVID J. BLODGETT, RONALD D. BLODGETT AND DAVID J. BLODGETT, DOING BUSINESS AS BLODGETT BROTHERS PARTNERSHIPS, DEFENDANTS-RESPONDENTS. (APPEAL NO. 1.) -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P.,

PERADOTTO, GREEN, AND PINE, JJ. (Filed Apr. 30, 2010.)

MOTION NO. (1578/09) CA 08-02196. -- CHARLES R. MCLAUGHLIN AND CHERYL MCLAUGHLIN, PLAINTIFFS-RESPONDENTS, V MIDROX INSURANCE COMPANY, DEFENDANT-APPELLANT, RONALD D. BLODGETT, DAVID J. BLODGETT, RONALD D. BLODGETT AND DAVID J. BLODGETT, DOING BUSINESS AS BLODGETT BROTHERS PARTNERSHIPS, DEFENDANTS-RESPONDENTS. (APPEAL NO. 2.) -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., PERADOTTO, GREEN, AND PINE, JJ. (Filed Apr. 30, 2010.)

MOTION NO. (1579/09) CA 08-02420. -- RUBY JORDAN, FORMERLY KNOWN AS RUBY PREMO, PLAINTIFF-RESPONDENT, V RICHARD PREMO, DEFENDANT-APPELLANT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., PERADOTTO, GREEN, AND PINE, JJ. (Filed Apr. 30, 2010.)

MOTION NO. (1600/09) TP 09-01245. -- IN THE MATTER OF RHONDA MANGUS, PETITIONER, V NIAGARA COUNTY DEPARTMENT OF SOCIAL SERVICES AND NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES, RESPONDENTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., MARTOCHE, SMITH, FAHEY, AND CARNI, JJ. (Filed Apr. 30, 2010.)

MOTION NO. (1621/09) CA 09-01435. -- PAUL CWIKLINSKI AND LISE CWIKLINSKI,

PLAINTIFFS-RESPONDENTS, V SEARS, ROEBUCK & CO., INC., EMERSON ELECTRIC CO., AND VERMONT AMERICAN CORPORATION, DEFENDANTS-APPELLANTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied; cross motion for reargument denied. PRESENT: SCUDDER, P.J., CENTRA, FAHEY, CARNI, AND PINE, JJ. (Filed Apr. 30, 2010.)

MOTION NO. (1658/09) CA 09-00534. -- EUGENE TAILLIE, ET AL., PLAINTIFFS, AND KEVIN TAILLIE, PLAINTIFF-APPELLANT, V ROCHESTER GAS AND ELECTRIC CORPORATION, AND R.E. GINNA NUCLEAR POWER PLANT LLC, DEFENDANTS-RESPONDENTS. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., MARTOCHE, SMITH, CENTRA, AND FAHEY, JJ. (Filed Apr. 30, 2010.)

MOTION NO. (1681.3/09) CA 08-02271. -- NICOLE S. MAURER, PLAINTIFF-RESPONDENT-APPELLANT, V TOPS MARKETS, LLC, DEFENDANT-APPELLANT-RESPONDENT. (APPEAL NO. 3.) -- Motion for reargument denied. PRESENT: CENTRA, J.P., PERADOTTO, CARNI, PINE, AND GORSKI, JJ. (Filed Apr. 30, 2010.)

MOTION NO. (15/10) TP 09-01616. -- IN THE MATTER OF DANA RENE GIGNAC, R. PH., DOING BUSINESS AS SARATOGA PHARMACY, PETITIONER, V DAVID A. PATERSON, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF STATE OF NEW YORK, RICHARD F. DAINES, M.D., IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF NEW YORK STATE DEPARTMENT OF HEALTH, AND JAMES G. SHEEHAN, IN HIS OFFICIAL CAPACITY AS MEDICAID INSPECTOR GENERAL OF OFFICE OF MEDICAID INSPECTOR GENERAL,

**RESPONDENTS.** -- Motion for reargument denied. PRESENT: SCUDDER, P.J., PERADOTTO, GREEN, AND GORSKI, JJ. (Filed Apr. 30, 2010.)

**MOTION NO. (18/10) CA 09-01909.** -- SCOTT VANBUSKIRK, CLAIMANT-APPELLANT, V STATE OF NEW YORK, DEFENDANT-RESPONDENT. (CLAIM NO. 107578.) -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., PERADOTTO, CARNI, GREEN, AND GORSKI, JJ. (Filed Apr. 30, 2010.)

**KAH 09-00949.** -- THE PEOPLE OF THE STATE OF NEW YORK EX REL. SHELTIERE BROOKS, PETITIONER-APPELLANT, V NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES, RESPONDENT-RESPONDENT. -- Appeal dismissed without costs as moot. Counsel's motion to be relieved of assignment granted. (Appeal from Judgment of Supreme Court, Wyoming County, Mark H. Dadd, J. - Habeas Corpus). PRESENT: SCUDDER, P.J., MARTOCHE, FAHEY, GORSKI, AND GREEN, JJ. (Filed Apr. 30, 2010.)

**KAH 09-01174.** -- THE PEOPLE OF THE STATE OF NEW YORK EX REL. JOHN COVINGTON, PETITIONER-APPELLANT, V HAROLD GRAHAM, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY, 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 of Supreme Court, Cayuga County, Mark Fandrich, J. - Habeas Corpus). PRESENT: SCUDDER, P.J., MARTOCHE, FAHEY, GORSKI, AND GREEN, JJ. (Filed Apr. 30, 2010.)

**KA 09-00597. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V KEVIN DUNN, DEFENDANT-APPELLANT.** -- Motion to dismiss granted. Memorandum: Appeal unanimously dismissed and matter remitted to Erie County Court to vacate the judgment of conviction and dismiss the indictment either sua sponte or on application of either the District Attorney or counsel for defendant (*see People v Matteson*, 75 NY2d 745). PRESENT: SCUDDER, P.J., MARTOCHE, SMITH, CENTRA, AND FAHEY, JJ. (Filed Apr. 30, 2010.)

**KAH 08-00804 AND KAH 08-00805. -- THE PEOPLE OF THE STATE OF NEW YORK EX REL. GARNETT R. LEACOCK, PETITIONER-APPELLANT, V DEPARTMENT OF CORRECTIONAL SERVICES, RESPONDENT-RESPONDENT.** -- Motion for reargument, or in the alternative, leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., CENTRA, FAHEY, CARNI, AND PINE, JJ. (Filed Apr. 30, 2010.)

**KA 09-00207. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MARVIN RICHARDSON, 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 Supreme Court, Erie County, John L. Michalski, J. - Criminal Possession of a Weapon, 2nd Degree). PRESENT: SCUDDER, P.J., MARTOCHE, FAHEY, GORSKI, AND GREEN, JJ. (Filed Apr. 30, 2010.)

**KA 09-00386. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V WILLIE L. WILSON, JR., DEFENDANT-APPELLANT.** -- Motion to dismiss granted.

Memorandum: Appeal unanimously dismissed and matter remitted to Ontario County Court to vacate the judgment of conviction and dismiss the indictment either sua sponte or on application of either the District Attorney or counsel for defendant (see *People v Matteson*, 75 NY2d 745).

PRESENT: SCUDDER, P.J., MARTOCHE, SMITH, CENTRA, AND FAHEY, JJ. (Filed Apr. 30, 2010.)