

MOTION NO. (1945/90) KA 02-01501. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MICHAEL MCKINNEY, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., FAHEY, LINDLEY, SCONIERS, AND WHALEN, JJ. (Filed Feb. 7, 2014.)

MOTION NO. (1078/99) KA 97-00568. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V FRANK D'ANTUONO, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, PERADOTTO, CARNI, AND LINDLEY, JJ. (Filed Feb. 7, 2014.)

MOTION NO. (1690/03) KA 01-01186. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ALEX NANCE, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, CENTRA, LINDLEY, AND VALENTINO, JJ. (Filed Feb. 7, 2014.)

MOTION NO. (738/07) KA 03-00814. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ROBERT A. GRIFFIN, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, FAHEY, PERADOTTO, AND WHALEN, JJ. (Filed Feb. 7, 2014.)

MOTION NO. (1006/08) KA 07-00713. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JARVIS LASSALLE, DEFENDANT-APPELLANT. -- 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, County Court erred in failing to advise defendant prior to the entry of his plea that his sentence would include a period of postrelease supervision. Upon our review of the motion papers, we conclude that the issue may have merit. Therefore, the order of October 3, 2008 is vacated and this Court will consider the appeal 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 May 23, 2014. PRESENT: SCUDDER, P.J., SMITH, CENTRA, FAHEY, AND LINDLEY, JJ. (Filed Feb. 7, 2014.)

MOTION NO. (212/09) KA 07-01644. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V BRIAN L. ALLPORT, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., CENTRA, FAHEY, PERADOTTO, AND LINDLEY, JJ. (Filed Feb. 7, 2014.)

MOTION NO. (579/10) KA 08-01906. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V DERRICK R. FULTON, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, FAHEY, LINDLEY, AND SCONIERS, JJ. (Filed Feb. 7, 2014.)

MOTION NO. (434/12) KA 10-01638. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V PHILLIP HOLLOWAY, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., PERADOTTO, CARNI, LINDLEY, AND SCONIERS, JJ. (Filed Feb. 7, 2014.)

MOTION NO. (367/13) KA 11-00641. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V RONDULA LANE, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, CENTRA, CARNI, AND SCONIERS, JJ. (Filed Feb. 7, 2014.)

MOTION NO. (910/13) CA 12-01497. -- PHILLIP DEL NERO, PLAINTIFF-APPELLANT, V MARK COLVIN, DEFENDANT-RESPONDENT. (APPEAL NO. 1.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., CARNI, SCONIERS, AND VALENTINO, JJ. (Filed Feb. 7, 2014.)

MOTION NO. (911/13) CA 12-01639. -- PHILLIP DEL NERO, PLAINTIFF-APPELLANT, V MARK COLVIN, DEFENDANT-RESPONDENT. (APPEAL NO. 2.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., CARNI, SCONIERS, AND VALENTINO, JJ. (Filed Feb. 7, 2014.)

MOTION NO. (1040/13) CA 12-01806. -- CHERYL FOLEY AND WILLIAM FOLEY, PLAINTIFFS-RESPONDENTS, V WEST-HERR FORD, INC., ET AL., DEFENDANTS. TIMOTHY B. HOWARD, SHERIFF, COUNTY OF ERIE, APPELLANT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., CENTRA, CARNI, AND LINDLEY, JJ. (Filed Feb. 7, 2014.)

MOTION NO. (1082/13) CA 13-00515. -- MARY BETH DEJOHN, PLAINTIFF-RESPONDENT, V SPEECH, LANGUAGE & COMMUNICATION ASSOCIATES, SLP, OT, PT, PLLC, TAMI D. TREUTLIEN AND SCOTT TREUTLIEN, DEFENDANTS-APPELLANTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied.

PRESENT: SMITH, J.P., PERADOTTO, CARNI, VALENTINO, AND WHALEN, JJ. (Filed Feb. 7, 2014.)

MOTION NO. (1088/13) CA 12-02386. -- PRICE TRUCKING CORP., FOR ITSELF AND ALL OTHER SIMILARLY SITUATED TRUST FUND BENEFICIARIES OF CERTAIN TRUST FUNDS PURSUANT TO NEW YORK LIEN LAW ARTICLE 3-A, PLAINTIFF-RESPONDENT, V AAA ENVIRONMENTAL, INC., ENVIRITE OF OHIO, INC., AND MIKE LINA PAVING, INC., DEFENDANTS-RESPONDENTS, FIRST NIAGARA BANK, N.A., DEFENDANT-APPELLANT, NORAMPAC INDUSTRIES, INC., ET AL., DEFENDANTS. --

Motion for reargument denied. PRESENT: SMITH, J.P., PERADOTTO, VALENTINO, AND WHALEN, JJ. (Filed Feb. 7, 2014.)

MOTION NO. (1148/13) CA 13-00572. -- IN THE MATTER OF GERALD STROBEL, FAITH STROBEL, JAMES COLLINS, PATRICIA COLLINS, FREDERICK MINTER AND BARBARA MINTER, PETITIONERS-APPELLANTS, V NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, TOWN OF CLARENCE, ERIE COUNTY DEPARTMENT OF HEALTH, JAMES BUONO AND KELLI BUONO, RESPONDENTS-RESPONDENTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., FAHEY, CARNI, SCONIERS, AND VALENTINO, JJ. (Filed Feb. 7, 2014.)

MOTION NO. (1191/13) CA 13-00362. -- KATHLEEN NASCA AND ANTHONY NASCA, PLAINTIFFS-APPELLANTS, V MARK LOUIS DELMONTE, DOING BUSINESS AS NIAGARA CHIROPRACTIC OFFICE (FORMERLY INCORRECTLY SUED HEREIN AS "NIAGARA CHIROPRACTIC"), DEFENDANT-RESPONDENT, ET AL., DEFENDANT. -- Motion for

reargument or leave to appeal to the Court of Appeals denied. PRESENT:
SMITH, J.P., CENTRA, FAHEY, CARNI, AND WHALEN, JJ. (Filed Feb. 7, 2014.)

**MOTION NO. (1192/13) CA 13-00029. -- JOSHUA MORRIS AND JESSICA MORRIS,
PLAINTIFFS-APPELLANTS, V TOWN OF LOCKE AND TOWN OF LANSING,
DEFENDANTS-RESPONDENTS.** -- Motion for reargument or leave to appeal to the
Court of Appeals denied. PRESENT: SMITH, J.P., CENTRA, FAHEY, CARNI, AND
WHALEN, JJ. (Filed Feb. 7, 2014.)

**MOTION NO. (1209/13) CA 12-01352. -- MANUEL MARTINEZ, CLAIMANT-APPELLANT, V
STATE OF NEW YORK, DEFENDANT-RESPONDENT. (CLAIM NO. 119899.) (APPEAL NO.
1.)** -- Motion for reargument or leave to appeal to the Court of Appeals
denied. PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, VALENTINO, AND WHALEN,
JJ. (Filed Feb. 7, 2014.)

**MOTION NO. (1210/13) CA 12-01353. -- MANUEL MARTINEZ, CLAIMANT-APPELLANT, V
STATE OF NEW YORK, DEFENDANT-RESPONDENT. (CLAIM NO. 119899.) (APPEAL NO.
2.)** -- Motion for reargument or leave to appeal to the Court of Appeals
denied. PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, VALENTINO, AND WHALEN,
JJ. (Filed Feb. 7, 2014.)

**MOTION NO. (1253/13) CA 13-00517. -- CHARTER ONE BANK, FSB, SUCCESSOR BY
MERGER TO ALBANK, FSB, PLAINTIFF-RESPONDENT, V RICHARD F. MILLS,
DEFENDANT-APPELLANT, 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 Feb. 7, 2014.)

MOTION NO. (1254/13) CA 13-00518. -- CHARTER ONE BANK, FSB, SUCCESSOR BY MERGER TO ALBANK, FSB, PLAINTIFF-RESPONDENT, V RICHARD F. MILLS, DEFENDANT-APPELLANT, 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 Feb. 7, 2014.)

MOTION NO. (1255/13) CA 12-02062. -- CHARTER ONE BANK, FSB, SUCCESSOR BY MERGER TO ALBANK, FSB, PLAINTIFF-RESPONDENT, V RICHARD F. MILLS, DEFENDANT-APPELLANT, ET AL., DEFENDANTS. (APPEAL NO. 3.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., FAHEY, CARNI, VALENTINO, AND WHALEN, JJ. (Filed Feb. 7, 2014.)

KA 10-01773. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V TOBY AMBRIATI, 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 Livingston County Court, Dennis S. Cohen, J. - Attempted Robbery, 1st Degree). PRESENT: SCUDDER, P.J., CENTRA, FAHEY, CARNI, AND VALENTINO, JJ. (Filed Feb. 7, 2014.)

KA 13-01144. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MARTIN

A. CALLOWAY, 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 Cayuga County Court, Thomas G. Leone, J. - Promoting Prison Contraband, 1st Degree). PRESENT: SCUDDER, P.J., CENTRA, FAHEY, CARNI, AND VALENTINO, JJ. (Filed Feb. 7, 2014.)

KA 12-01695. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V DARYL CATES, 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, Christopher J. Burns, J. - Aggravated Criminal Contempt). PRESENT: SCUDDER, P.J., CENTRA, FAHEY, CARNI, AND VALENTINO, JJ. (Filed Feb. 7, 2014.)

KA 13-00799. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V RODNEY DINGLE, 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 Wyoming County Court, Mark H. Dadd, J. - Attempted Promoting Prison Contraband, 1st Degree). PRESENT: SCUDDER, P.J., CENTRA, FAHEY, CARNI, AND VALENTINO, JJ. (Filed Feb. 7, 2014.)

KA 13-00032. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V LUIS RODRIGUEZ-FLAMENCO, ALSO KNOWN AS ROBERTO C. VEGA-RIVERA, ALSO KNOWN AS

JUAN CARLOS-RIVERIA, ALSO KNOWN AS LUIS RODRIGUES, ALSO KNOWN AS KALIMBA, 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 Orleans County Court, James P. Punch, J. - Murder, 2nd Degree). PRESENT: SCUDDER, P.J., CENTRA, FAHEY, CARNI, AND VALENTINO, JJ. (Filed Feb. 7, 2014.)