

**MOTION NO. (130/99) KA 98-00738. -- THE PEOPLE OF THE STATE OF NEW YORK, PLAINTIFF-RESPONDENT, V JULIO NIEVES, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., CARNI, DEJOSEPH, AND TROUTMAN, JJ. (Filed Feb. 1, 2019.)

**MOTION NO. (20/05) KA 02-02732. -- THE PEOPLE OF THE STATE OF NEW YORK, PLAINTIFF-RESPONDENT, V DYVON MCKINNON, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., NEMOYER, TROUTMAN, AND WINSLOW, JJ. (Filed Feb. 1, 2019.)

**MOTION NO. (55/07) KA 04-02539. -- THE PEOPLE OF THE STATE OF NEW YORK, PLAINTIFF-RESPONDENT, V KYLE E. MILLER, 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, specifically, whether the adjudication under the Sex Offender Registration Act here was barred by res judicata. Upon our review of the motion papers, we conclude that counsel's representation was not constitutionally adequate. The order of February 2, 2007 is vacated and this Court will consider the appeal de novo (see *People v LeFrois*, 151 AD2d 1046 [4th Dept 1989]). Defendant is directed to file and serve his records and briefs with this Court on or before May 31, 2019. PRESENT: SMITH, J.P., PERADOTTO, CURRAN, AND WINSLOW, JJ. (Filed Feb. 1, 2019.)

**MOTION NO. (386/15) KA 08-00886. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V LAZARUS CLYBURN-DAWSON, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: CENTRA, J.P., PERADOTTO, CARNI, AND DEJOSEPH, JJ. (Filed Feb. 1, 2019.)

**MOTION NO. (1301/15) KA 12-00569. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V GUILLERMO TORRES, III, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., SMITH, PERADOTTO, CARNI, AND LINDLEY, JJ. (Filed Feb. 1, 2019.)

**MOTION NO. (711/17) KA 17-00100. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V DEVIN GRIFFIN, ALSO KNOWN AS DEVIN D. GRIFFIN, SR., DEFENDANT-APPELLANT. (APPEAL NO. 1.)** -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., LINDLEY, DEJOSEPH, NEMOYER, AND CURRAN, JJ. (Filed Feb. 1, 2019.)

**MOTION NO. (481/18) KA 13-00469. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V BENJAMIN D. POHL, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: PERADOTTO, J.P., LINDLEY, DEJOSEPH, CURRAN, AND TROUTMAN, JJ. (Filed Feb. 1, 2019.)

**MOTION NO. (898/18) CAF 18-00514. -- IN THE MATTER OF TYMOTHY M. PARMENTER, PETITIONER-APPELLANT, V JULIE E. NASH, RESPONDENT-RESPONDENT.** -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT:

SMITH, J.P., CARNI, NEMOYER, CURRAN, AND TROUTMAN, JJ. (Filed Feb. 1, 2019.)

MOTION NO. (1002/18) CA 16-01853. -- NICK'S GARAGE, INC.,  
PLAINTIFF-APPELLANT, V GEICO INDEMNITY COMPANY, GOVERNMENT EMPLOYEES  
INSURANCE COMPANY, GEICO GENERAL INSURANCE COMPANY, AND GEICO CASUALTY  
INSURANCE COMPANY, DEFENDANTS-RESPONDENTS. (APPEAL NO. 1.) -- Motion for  
reargument denied. PRESENT: WHALEN, P.J., SMITH, DEJOSEPH, NEMOYER, AND  
TROUTMAN, JJ. (Filed Feb. 1, 2019.)

MOTION NO. (1003/18) CA 16-01854. -- JEFFREY'S AUTO BODY, INC.,  
PLAINTIFF-APPELLANT, V GEICO INDEMNITY COMPANY, GOVERNMENT EMPLOYEES  
INSURANCE COMPANY, GEICO GENERAL INSURANCE COMPANY, AND GEICO CASUALTY  
INSURANCE COMPANY, DEFENDANTS-RESPONDENTS. (APPEAL NO. 2.) -- Motion for  
reargument denied. PRESENT: WHALEN, P.J., SMITH, DEJOSEPH, NEMOYER, AND  
TROUTMAN, JJ. (Filed Feb. 1, 2019.)

MOTION NO. (1104/18) CA 17-02002. -- RICHARD H. WARNER, INDIVIDUALLY, AND  
AS GUARDIAN OF MARY DOROTHY WARNER, AN INCAPACITATED PERSON,  
CLAIMANT-APPELLANT, V STATE OF NEW YORK, DEFENDANT-RESPONDENT. (CLAIM NO.  
098768.) (APPEAL NO. 1.) -- Motion for reargument or leave to appeal to  
the Court of Appeals denied. PRESENT: CENTRA, J.P., LINDLEY, DEJOSEPH,  
NEMOYER, AND WINSLOW, JJ. (Filed Feb. 1, 2019.)

MOTION NO. (1105/18) CA 17-02003. -- RICHARD H. WARNER, AS EXECUTOR OF THE ESTATE OF MARY DOROTHY WARNER, DECEASED, CLAIMANT-APPELLANT, V STATE OF NEW YORK, DEFENDANT-RESPONDENT. (CLAIM NO. 105712.) (APPEAL NO. 2.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., LINDLEY, DEJOSEPH, NEMOYER, AND WINSLOW, JJ. (Filed Feb. 1, 2019.)

MOTION NO. (1106/18) CA 17-02004. -- RICHARD H. WARNER, INDIVIDUALLY, AND AS GUARDIAN OF MARY DOROTHY WARNER, AN INCAPACITATED PERSON, CLAIMANT-APPELLANT, V STATE OF NEW YORK, DEFENDANT-RESPONDENT. (CLAIM NO. 098768.) RICHARD H. WARNER, AS EXECUTOR OF THE ESTATE OF MARY DOROTHY WARNER, DECEASED, CLAIMANT-APPELLANT, V STATE OF NEW YORK, DEFENDANT-RESPONDENT. (CLAIM NO. 105712.) (APPEAL NO. 3.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., LINDLEY, DEJOSEPH, NEMOYER, AND WINSLOW, JJ. (Filed Feb. 1, 2019.)