

MOTION NO. (2089/96) KA 07-02229. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V DANIEL JONES, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, CENTRA, FAHEY, AND VALENTINO, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (1713/04) KA 02-00981. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ALVIN FULTON, JR., ALSO KNOWN AS SHAIK S., ALSO KNOWN AS SHAIKH S. ABDMUQTADIR, DEFENDANT-APPELLANT. -- Motion for reconsideration denied. PRESENT: SCUDDER, P.J., CENTRA, PERADOTTO, AND CARNI, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (699/06) KA 05-01283. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MARVIN D. VASSAR, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, LINDLEY, VALENTINO, AND WHALEN, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (1648/06) KA 04-02967. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CLEOTIS MERCER, DEFENDANT-APPELLANT. -- Motion seeking renewal of direct appeal denied. PRESENT: SCUDDER, P.J., CENTRA, PERADOTTO, LINDLEY, AND WHALEN, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (1573/07) KA 05-00983. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JAMES F. CAHILL, III, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, FAHEY, AND LINDLEY, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (911/08) KA 04-00435. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V TIMOTHY R. THOMAS, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, WHALEN AND DEJOSEPH, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (657/09) KA 06-01233. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SHAWN M. CAMPBELL, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, FAHEY, PERADOTTO, AND CARNI, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (1143/09) KA 07-02575. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V WILLIE J. SINGLETON, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, CENTRA, AND CARNI, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (269/10) KA 08-02369. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V LORCEN BURROUGHS, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., FAHEY, CARNI, AND LINDLEY, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (484/10) KA 07-00255. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CHARLES S. COBB, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: CENTRA, J.P., FAHEY, PERADOTTO, AND WHALEN, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (433/13) TP 12-02130. -- IN THE MATTER OF JAYSON BULMAHN, PETITIONER, V NEW YORK STATE OFFICE OF MEDICAID INSPECTOR GENERAL AND NEW YORK STATE DEPARTMENT OF HEALTH, RESPONDENTS. -- Motion to compel denied. PRESENT: SCUDDER, P.J., PERADOTTO, LINDELY, AND VALENTINO, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (1003/13) KA 12-00426. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V RICHARD E. SHINEBARGER, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., FAHEY, VALENTINO, AND WHALEN, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (1067/13) KA 10-02428. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JETONE JONES, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, AND VALENTINO, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (1173/13) TP 13-00534. -- IN THE MATTER OF EDDIE ORTIZ, PETITIONER, V CHARLES KELLY, JR., SUPERINTENDENT, MARCY CORRECTIONAL FACILITY AND BRIAN FISCHER, COMMISSIONER, NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, RESPONDENTS. -- Motion for reargument denied. PRESENT: CENTRA, J.P., FAHEY, CARNI, AND WHALEN, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (164.1/14) KA 09-01253. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JESSE ROBERITES, DEFENDANT-APPELLANT. -- Motion for reargument and other relief denied. PRESENT: SMITH, J.P., FAHEY,

VALENTINO, AND WHALEN, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (264/14) CA 13-01385. -- IN THE MATTER OF SHERIDAN PARK, INC. AND AMIGONE FUNERAL HOME, INC., PETITIONERS-APPELLANTS, V NEW YORK STATE DIVISION OF CEMETERIES, NEW YORK STATE DEPARTMENT OF STATE DIVISION OF CEMETERIES, NEW YORK STATE CEMETERY BOARD, NEW YORK STATE DEPARTMENT OF STATE, RICHARD D. FISHMAN, DIRECTOR OF NEW YORK STATE DIVISION OF CEMETERIES, NEW YORK STATE DEPARTMENT OF STATE DIVISION OF CEMETERIES, CESAR A. PERALES, NEW YORK STATE SECRETARY OF STATE AND MEMBER OF NEW YORK STATE CEMETERY BOARD, NEW YORK STATE DEPARTMENT OF STATE, ERIC T. SCHNEIDERMAN, AS NEW YORK STATE ATTORNEY GENERAL AND A MEMBER OF NEW YORK STATE CEMETERY BOARD, AND NIRAV R. SHAH, M.D., M.P.H., AS NEW YORK STATE COMMISSIONER OF HEALTH AND A MEMBER OF NEW YORK STATE CEMETERY BOARD, RESPONDENTS-RESPONDENTS. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., PERADOTTO, CARNI, VALENTINO, AND WHALEN, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (301/14) CA 13-01384. -- HILLCREST HOMES, LLC, PLAINTIFF-APPELLANT, V ALBION MOBILE HOMES, INC., DOING BUSINESS AS HERITAGE ESTATES AND RICHARD DECARLO, DEFENDANTS-RESPONDENTS. -- Motion for reargument denied. PRESENT: SCUDDER, P.J., CENTRA, FAHEY, PERADOTTO, AND WHALEN, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (331/14) KA 12-01249. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V STEPHAN MERRITT, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: SCUDDER, P.J., PERADOTTO, CARNI, LINDLEY, AND

VALENTINO, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (380/14) KA 11-01665. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CEDRIC J. WILLIAMS, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: SCUDDER, P.J., SMITH, CARNI, LINDLEY, AND WHALEN, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (454/14) KA 13-00064. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SHUVON J. WILLIAMS, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: CENTRA, J.P., FAHEY, PERADOTTO, LINDLEY, AND VALENTINO, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (484/14) CA 13-00391. -- PETER A. PRIOLA, III, PLAINTIFF-APPELLANT, V ATTORNEY SHEILA FALLON, MEGAN FALLON AND FALLON, FALLON & BIGSBY, LLP, DEFENDANTS-RESPONDENTS. -- Motions for reargument and leave to appeal to the Court of Appeals denied. PRESENT: FAHEY, J.P., PERADOTTO, LINDLEY, AND VALENTINO, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (487/14) CA 13-00512. -- IN THE MATTER OF LAZY ACRES PARK, LLC, PETITIONER-APPELLANT, V PAUL FERRETTI, ROBIN FERRETTI AND CLAUDETTE SHELTON, RESPONDENTS-RESPONDENTS. -- Motion and cross motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: FAHEY, J.P., PERADOTTO, CARNI, AND VALENTINO, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (523/14) CA 13-01990. -- IN THE MATTER OF BUFFALO NIAGARA BUSINESS PARK, LLC, PETITIONER-APPELLANT, V BOARD OF ASSESSMENT REVIEW FOR

**CITY OF BUFFALO, ASSESSOR OF CITY OF BUFFALO, CITY OF BUFFALO,
RESPONDENTS-RESPONDENTS, AND COUNTY OF ERIE, INTERVENOR-RESPONDENT. --**

Motion for reargument or leave to appeal to the Court of Appeals denied.

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, LINDLEY, AND WHALEN, JJ. (Filed Sept. 26, 2014.)

**MOTION NO. (528/14) CA 13-01300. -- LAURA LANKENAU, PLAINTIFF-APPELLANT, V
PATRICK K. BOLES, M & S LEASING CO., LLC, DEENA LANKENAU AND DOUGLAS
LANKENAU, DEFENDANTS-RESPONDENTS. (APPEAL NO. 1.) -- Motion for reargument
or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P.,
PERADOTTO, CARNI, LINDLEY, AND WHALEN, JJ. (Filed Sept. 26, 2014.)**

**MOTION NO. (547/14) CA 13-00383. -- CHALINA RUIZ, PLAINTIFF-RESPONDENT, V
BRENDAN L. COPE AND CITY OF SYRACUSE, DEFENDANTS-APPELLANTS. -- Motion for
reargument, reconsideration, or leave to appeal to the Court of Appeals
denied. PRESENT: SCUDDER, P.J., FAHEY, LINDLEY, VALENTINO, AND WHALEN,
JJ. (Filed Sept. 26, 2014.)**

**MOTION NO. (648.1/14) CA 13-00560. -- DAWN STEFANIAK, PLAINTIFF, V NFN
ZULKHARNAIN, DEFENDANT-RESPONDENT. ROBERTA L. REEDY, AS ADMINISTRATOR OF
THE ESTATE OF KEVIN M. REEDY, DECEASED, APPELLANT. -- Motion for reargument
or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER,
P.J., FAHEY, LINDLEY, AND WHALEN, JJ. (Filed Sept. 26, 2014.)**

**MOTION NO. (700/14) KA 12-01328. -- THE PEOPLE OF THE STATE OF NEW YORK,
RESPONDENT, V KEITH LYMAN, ALSO KNOWN AS KEITH J. LYMAN, ALSO KNOWN AS**

KEITH JOSEPH LYMAN, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis granted. Memorandum: The order of June 13, 2014 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 January 7, 2015. PRESENT: SCUDDER, P.J., SMITH, CARNI, LINDLEY, AND WHALEN, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (721/14) KA 13-00775. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V RICHARD D. SACKEL, DEFENDANT-APPELLANT. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., FAHEY, PERADOTTO, VALENTINO, AND DEJOSEPH, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (750/14) CA 13-01410. -- IN THE MATTER OF PAUL KAIRIS, PETITIONER-APPELLANT, V HAROLD D. GRAHAM, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY, RESPONDENT-RESPONDENT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., CARNI, WHALEN, AND DEJOSEPH, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (759/14) CA 13-02094. -- TEHAN'S CATALOG SHOWROOMS, INC., CLAIMANT-APPELLANT, V STATE OF NEW YORK, DEFENDANT-RESPONDENT. (CLAIM NO. 117360.) (APPEAL NO. 1.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., CARNI, WHALEN, AND DEJOSEPH, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (760/14) CA 13-02096. -- TEHAN'S CATALOG SHOWROOMS, INC., CLAIMANT-APPELLANT, V STATE OF NEW YORK, DEFENDANT-RESPONDENT. (CLAIM NO.

117360.) (APPEAL NO. 2.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., CARNI, WHALEN, AND DEJOSEPH, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (779/14) CA 13-01790. -- APRIL M. WILLIAMS, PLAINTIFF-RESPONDENT-APPELLANT, V CHARLES A. FASSINGER AND CITY OF SYRACUSE, DEFENDANTS-APPELLANTS-RESPONDENTS. (APPEAL NO. 1.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., FAHEY, PERADOTTO, AND VALENTINO, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (782/14) CA 13-02124. -- IN THE MATTER OF OBSESSION BAR AND GRILL, INC. AND JOAN ORTIZ, PETITIONERS-RESPONDENTS, V ZONING BOARD OF APPEALS OF CITY OF ROCHESTER AND CITY OF ROCHESTER, RESPONDENTS-APPELLANTS. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., FAHEY, PERADOTTO, AND VALENTINO, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (789/14) KA 11-02153. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MICHAEL HASSETT, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: SCUDDER, P.J., FAHEY, PERADOTTO, AND LINDLEY, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (823/14) TP 14-00205. -- IN THE MATTER OF JOY ARBOGAST, PETITIONER, V NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES, SPECIAL HEARING BUREAU, RESPONDENT. -- Motion for leave to appeal to the

Court of Appeals denied. PRESENT: CENTRA, J.P., FAHEY, CARNI, LINDLEY, AND VALENTINO, JJ. (Filed Sept. 26, 2014.)

MOTION NO. (1050/14) KA 11-00299. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V WILLIAM J. MILLER, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, LINDLEY, AND DEJOSEPH, JJ. (Filed Sept. 26, 2014.)

KA 11-01383. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V TYLER T. CODY, DEFENDANT-APPELLANT. -- Motion to dismiss granted. Memorandum: The matter is remitted to Monroe County Court to vacate the judgment of conviction and dismiss the indictment either sua sponte or on application of either the District Attorney or the counsel for defendant (*see People v Matteson*, 75 NY2d 745). PRESENT: SCUDDER, P.J., SMITH, CENTRA, FAHEY, AND PERADOTTO, JJ. (Filed Sept. 26, 2014.)

KA 13-02071. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V KENNETH H. FORD, DEFENDANT-APPELLANT. -- The case is held, the decision is reserved, the motion to relieve counsel of assignment is granted and new counsel is to be assigned. Memorandum: Defendant appeals from an order determining that he is a level three risk pursuant to the Sex Offender Registration Act (Correction Law § 168 *et seq.*). Defendant's assigned appellate counsel has moved to be relieved of the assignment pursuant to *People v Crawford* (71 AD2d 38), and has submitted an affidavit in which he states that there are no meritorious issues for appeal. Upon our review of the record, we conclude that nonfrivolous issues exist concerning the determination of defendant's risk level classification, with regard to both

the assessment of the risk factor points challenged by defendant, and the application of an automatic override for a prior felony conviction of a sex crime (see *People v Moore*, 115 AD3d 1360, 1360-1361). We therefore relieve counsel of his assignment and assign new counsel to brief these issues, as well as any other issues that counsel's review of the record may disclose. (Appeal from Order of Wayne County Court, John B. Nesbitt, J. - Sex Offender Registration Act). PRESENT: SCUDDER, P.J., CENTRA, CARNI, LINDLEY, AND WHALEN, JJ. (Filed Sept. 26, 2014.)

KA 11-00547. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V WILLIE J. HARRIS, JR., DEFENDANT-APPELLANT. -- Appeal dismissed as moot. Counsel's motion to be relieved of assignment granted. (Appeal from an Order of Supreme Court, Monroe County, Francis A. Affronti, J. - Criminal Sale of a Controlled Substance, 3rd Degree). PRESENT: SCUDDER, P.J., CENTRA, CARNI, LINDLEY, AND WHALEN, JJ. (Filed Sept. 26, 2014.)

KA 10-02505. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V RAYMOND JAMES, DEFENDANT-APPELLANT. -- Appeal dismissed as moot. Counsel's motion to be relieved of assignment granted. (Appeal from an Order of Supreme Court, Monroe County, David D. Egan, J. - Criminal Sale of a Controlled Substance, 3rd Degree). PRESENT: SCUDDER, P.J., CENTRA, CARNI, LINDLEY, AND WHALEN, JJ. (Filed Sept. 26, 2014.)

KA 11-00142. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ROMMEL LEWIS, DEFENDANT-APPELLANT. -- Resentence unanimously affirmed. Counsel's motion to be relieved of assignment granted (see *People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Resentence of Monroe County Court, Patricia D.

Marks, J. - Assault, 1st Degree). PRESENT: SCUDDER, P.J., CENTRA, CARNI, LINDLEY, AND WHALEN, JJ. (Filed Sept. 26, 2014.)

KA 14-00228. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V DONALD E. MEAD, JR., ALSO KNOWN AS DONALD MEAD, JR., ALSO KNOWN AS DONALD MEAD, DEFENDANT-APPELLANT. -- The case is held, the decision is reserved, the motion to relieve counsel of assignment is granted and new counsel is to be assigned. Memorandum: Defendant was convicted upon his *Alford* plea of attempted assault in the second degree (Penal Law §§ 110.00, 120.05 [2]). Defendant's assigned appellate counsel has moved to be relieved of the assignment pursuant to *People v Crawford* (71 AD2d 38). Our review of the record reveals a nonfrivolous issue regarding the validity of defendant's plea, i.e., whether there was sufficient evidence of guilt in the record to support the *Alford* plea (see *People v Richardson*, 72 AD3d 1578, 1579-1580; *People v Oberdorf*, 5 AD3d 1000, 1001). We therefore relieve counsel of her assignment and assign new counsel to brief this issue, as well as any other issues that counsel's review of the record may disclose. (Appeal from Judgment of Genesee County Court, Robert C. Noonan, J. - Attempted Assault, 2nd Degree). PRESENT: SCUDDER, P.J., CENTRA, CARNI, LINDLEY, AND WHALEN, JJ. (Filed Sept. 26, 2014.)