



*State of New York
Court of Appeals*

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NOTICE TO THE BAR

Amicus Curiae Participation

On October 15, 2014, the Court will hear oral argument in People v Dwight R. DeLee. The defendant Dwight R. DeLee was charged with three offenses: (1) murder in the second degree, alleging that he intentionally killed the victim due to the victim's sexual orientation; (2) intentional murder in the second degree; and (3) criminal possession of a weapon in the third degree. As to the first charge, the court submitted to the jury, among other offenses, the lesser included offense of manslaughter in the first degree as a hate crime. With respect to the second charge, the court submitted to the jury, among other offenses, the lesser included offense of manslaughter in the first degree. The jury found defendant guilty of manslaughter in the first degree as a hate crime and criminal possession of a weapon in the third degree.

The Appellate Division modified the judgment of conviction by reversing that part convicting defendant of manslaughter in the first degree as a hate crime and dismissing count one of the indictment, and affirmed the judgment as modified (108 AD3d 1145 [4th Dept. 2013]). Justice Peradotto granted the People's application for leave to appeal to this Court.

The issue on appeal is whether the Appellate Division erred in concluding that the verdict was inconsistent inasmuch as the jury convicted defendant of manslaughter in the first degree as a hate crime (Penal Law §§ 125.20 [1]; 485.05 [1] [a]), but acquitted him of manslaughter in the first degree (Penal Law § 125.20 [1]).

The Court invites amicus curiae participation from those qualified and interested.

Amicus motions must comply with section 500.23 of the Rules of the Court of Appeals. The text of the Rule is available on the Court's website at:

<http://www.courts.state.ny.us/ctapps/500rules.htm.#Amicus>

Questions may be directed by telephone to the Clerk's Office at (518) 455-7705.