

MOTION NO. (1471/91) KA 10-00077. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V DOMINIC BRETTI, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., LINDLEY, GREEN, AND PINE, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (686/94) KA 09-02420. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V HECTOR RIVERA, 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, in failing to argue that Supreme Court erred in responding to notes from the jury during its deliberations. Upon our review of the trial court proceedings, we conclude that the issue may have merit. Therefore, the order of July 15, 1994 is vacated and this Court will consider the appeal de novo (*see People v LeFrois*, 151 AD2d 1046). Defendant is directed to perfect his appeal on or before May 17, 2010. PRESENT: PERADOTTO, J.P., FAHEY, GREEN, AND PINE, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (681/95) KA 06-02255. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V EUGENE TURNER, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CARNI, GREEN, AND GORSKI, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (1521/00) KA 98-05049. -- THE PEOPLE OF THE STATE OF NEW YORK,

RESPONDENT, V GREAT GOD WHITE, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., FAHEY, GREEN, AND PINE, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (737/05) KA 05-00449. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ANTHONY VASQUEZ, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, PERADOTTO, AND PINE, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (1150/05) KA 03-00443. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MICHAEL WILSON, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CARNI, GREEN, AND GORSKI, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (445/06) KA 05-00193. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V RICHARD F. MILLS, DEFENDANT-APPELLANT. -- Motion for reargument and renewal denied. PRESENT: SMITH, J.P., CARNI, GREEN, AND PINE, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (445/06) KA 05-00193. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V RICHARD F. MILLS, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: SMITH, J.P., GREEN, PINE, AND GORSKI, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (240/07) KA 06-03188. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JAMES H. GILKESON, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, GREEN, PINE, AND GORSKI, JJ. (Filed Feb. 11, 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 Feb. 11, 2010.)

MOTION NO. (753/08) KA 06-01225. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V LAMAR GRIMES, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., FAHEY, PINE, AND GORSKI, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (1048/08) KA 02-02682. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V AARON MCKNIGHT, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., GREEN, PINE, AND GORSKI, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (1040/09) CA 09-00219. -- IN THE MATTER OF ST. ANN'S HOME FOR THE AGED, ET AL., PETITIONERS-RESPONDENTS-APPELLANTS, V RICHARD F. DAINES, M.D., COMMISSIONER OF HEALTH, STATE OF NEW YORK, RESPONDENT-APPELLANT-RESPONDENT. -- Motion to correct memorandum and for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., PERADOTTO,

CARNI, AND GREEN, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (1127/09) CA 09-00421. -- HUEN NEW YORK, INC.,
PLAINTIFF-APPELLANT, V BOARD OF EDUCATION CLINTON CENTRAL SCHOOL DISTRICT,
DEFENDANT-RESPONDENT. -- Motion for reargument or leave to appeal to the
Court of Appeals denied. PRESENT: FAHEY, J.P., PERADOTTO, GREEN, AND
PINE, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (1153/09) CA 09-00652. -- IN THE MATTER OF THE RIDGE ROAD FIRE
DISTRICT, PETITIONER-RESPONDENT, V MICHAEL P. SCHIANO, AS HEARING OFFICER
DESIGNATED PURSUANT TO THE COLLECTIVE BARGAINING AGREEMENT BETWEEN RIDGE
ROAD FIRE DISTRICT AND RIDGE ROAD PROFESSIONAL FIREFIGHTERS ASSOCIATION
IAFF, LOCAL 3794, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL-CIO,
RESPONDENT, KEVIN NOWAK, AND RIDGE ROAD PROFESSIONAL FIREFIGHTERS
ASSOCIATION IAFF, LOCAL 3794, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS,
AFL-CIO, RESPONDENTS-APPELLANTS. -- Motion for reargument or leave to
appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., SMITH,
CARNI, PINE, AND GORSKI, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (1156/09) CA 09-00354. -- ONEIDA INDIAN NATION, A SOVEREIGN
NATION, PLAINTIFF-APPELLANT, V HUNT CONSTRUCTION GROUP, INC.,
DEFENDANT-RESPONDENT. -- Motion for reargument or leave to appeal to the
Court of Appeals denied. PRESENT: SCUDDER, P.J., SMITH, CARNI, PINE, AND
GORSKI, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (1177/09) CA 08-01871. -- KATHLEEN DOODY, PLAINTIFF-RESPONDENT,
V KENNETH L. GOTTSHALL AND DIANE A. GOTTSHALL, DEFENDANTS-APPELLANTS.

(APPEAL NO. 1.) -- Motion for clarification or reargument denied. PRESENT:
CENTRA, J.P., FAHEY, PERADOTTO, AND GREEN, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (1178/09) CA 08-01872. -- KATHLEEN DOODY, PLAINTIFF-RESPONDENT,
V KENNETH L. GOTTSHALL AND DIANE A. GOTTSHALL, DEFENDANTS-APPELLANTS.

(APPEAL NO. 2.) -- Motion for clarification or reargument denied. PRESENT:
CENTRA, J.P., FAHEY, PERADOTTO, AND GREEN, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (1293/09) CA 09-01063. -- DONALD GIMENO,
PLAINTIFF-APPELLANT-RESPONDENT, V AMERICAN SIGNATURE, INC., DOING BUSINESS
AS VALUE-CITY FURNITURE, CONSTRUCTION ONE, DEFENDANTS-RESPONDENTS, MELCO
CONSTRUCTION SERVICES, INC., MIDWEST INTERIORS,
DEFENDANTS-RESPONDENTS-APPELLANTS, ET AL., DEFENDANT. -- Motion for
reargument denied. PRESENT: SCUDDER, P.J., SMITH, CARNI, AND GREEN, JJ.
(Filed Feb. 11, 2010.)

MOTION NO. (1298/09) KA 08-02280. -- THE PEOPLE OF THE STATE OF NEW YORK,
RESPONDENT, V MURTADA S. EBRAHIM, DEFENDANT-APPELLANT. -- Motion for
reargument denied. PRESENT: CENTRA, J.P., FAHEY, PERADOTTO, AND GORSKI,
JJ. (Filed Feb. 11, 2010.)

MOTION NO. (1309/09) CA 09-00953. -- IN THE MATTER OF PASTOR KEITH H.
SCOTT, SR., ET AL., PETITIONERS, DORA RICHARDSON, JOSEPHINE RUSH, JOHN

MCKENDRY, AND SHELLEY MCKENDRY, PETITIONERS-APPELLANTS, V CITY OF BUFFALO, COMMON COUNCIL OF CITY OF BUFFALO, BYRON BROWN, IN HIS OFFICIAL CAPACITY AS MAYOR OF CITY OF BUFFALO, CITY OF BUFFALO DEPARTMENT OF PUBLIC WORKS, DEPARTMENT OF ECONOMIC DEVELOPMENT PERMITS AND INSPECTION, BUFFALO SEWER AUTHORITY AND BUFFALO MUNICIPAL WATER FINANCE AUTHORITY, RESPONDENTS-RESPONDENTS. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., PERADOTTO, PINE, AND GORSKI, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (1311/09) CA 09-00707. -- JASON ANDREWS, PLAINTIFF-RESPONDENT, V NORTHWEST AUTO MALL AND FRANK SANTONASTASO, DEFENDANTS-APPELLANTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., FAHEY, PERADOTTO, AND GORSKI, JJ. (Filed Feb. 11, 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 reargument denied. PRESENT: CENTRA, J.P., FAHEY, CARNI, AND PINE, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (1367/09) CA 09-00332. -- JAMES O'DONNELL, PLAINTIFF-APPELLANT, V BUFFALO-DS ASSOCIATES, LLC, DELTA SONIC CARWASH SYSTEMS, INC., AND BENDERSON DEVELOPMENT COMPANY, DEFENDANTS-RESPONDENTS. -- Motion for reargument and renewal denied. PRESENT: SCUDDER, P.J., SMITH, CENTRA, AND PERADOTTO, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (1401/09) KA 07-02521. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CHARLES L. RIVERS, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: SCUDDER, P.J., CENTRA, FAHEY, GREEN, AND GORSKI, JJ. (Filed Feb. 11, 2010.)

MOTION NO. (1422/09) KA 08-01681. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V EMMETT BAKER, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: SMITH, J.P., CARNI, PINE, AND GORSKI, JJ. (Filed Feb. 11, 2010.)

KAH 09-00118. -- THE PEOPLE OF THE STATE OF NEW YORK EX REL. JOSE CRUZ, PETITIONER-APPELLANT, V DEPARTMENT OF CORRECTIONAL SERVICES, RESPONDENT-RESPONDENT. -- Judgment unanimously affirmed without costs. Counsel's motion to be relieved of assignment granted (*see People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Judgment of Supreme Court, Wyoming County, Mark H. Dadd, J. - Habeas Corpus). PRESENT: SCUDDER, P.J., SMITH, FAHEY, AND LINDLEY, JJ. (Filed Feb. 11, 2010.)

KAH 09-00112. -- THE PEOPLE OF THE STATE OF NEW YORK EX REL. DONELL GRANT, PETITIONER-APPELLANT, V DEPARTMENT OF CORRECTIONAL SERVICES, RESPONDENT-RESPONDENT. -- Judgment unanimously affirmed without costs. Counsel's motion to be relieved of assignment granted (*see People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Judgment of Supreme Court, Wyoming County, Mark H. Dadd, J. - Habeas Corpus). PRESENT: SCUDDER, P.J., SMITH, FAHEY, AND LINDLEY, JJ. (Filed Feb. 11, 2010.)

KA 08-01143. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V TAMMY S. HUTCHINSON, 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 Ontario County Court, Frederick G. Reed, J. - Possession of a Forged Instrument, 2nd Degree). PRESENT: SCUDDER, P.J., SMITH, FAHEY, AND LINDLEY, JJ. (Filed Feb. 11, 2010.)

KAH 09-00751. -- THE PEOPLE OF THE STATE OF NEW YORK EX REL. RONALD JACKSON, PETITIONER-APPELLANT, V NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES, RESPONDENT-RESPONDENT. -- Judgment unanimously affirmed without costs. Counsel's motion to be relieved of assignment granted (*see People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Judgment of Supreme Court, Wyoming County, Mark H. Dadd, J. - Habeas Corpus). PRESENT: SCUDDER, P.J., SMITH, FAHEY, AND LINDLEY, JJ. (Filed Feb. 11, 2010.)

KA 08-00537. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CLIFTON MOODY, 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 Ontario County Court, William F. Kocher, J. - Criminal Sale of a Controlled Substance, 3rd Degree). PRESENT: SCUDDER, P.J., SMITH, FAHEY, AND LINDLEY, JJ. (Filed Feb. 11, 2010.)

KA 07-01115. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JOHN BANCHS RIVERA, DEFENDANT-APPELLANT. -- Order unanimously affirmed.

Counsel's motion to be relieved of assignment granted (*see People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Order of Monroe County Court, John J. Connell, J. - 2005 Drug Law Reform Act). PRESENT: SCUDDER, P.J., SMITH, FAHEY, AND LINDLEY, JJ. (Filed Feb. 11, 2010.)

KA 08-02678. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V DARIEN WALKER, 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 Erie County Court, Thomas P. Franczyk, J. - Criminal Possession of a Controlled Substance, 7th Degree). PRESENT: SCUDDER, P.J., SMITH, FAHEY, AND LINDLEY, JJ. (Filed Feb. 11, 2010.)

KA 08-01210. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V EUGENE WALKER, JR., 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 Ontario County Court, Frederick G. Reed, J. - Criminal Possession of a Controlled Substance, 3rd Degree). PRESENT: SCUDDER, P.J., SMITH, FAHEY, AND LINDLEY, JJ. (Filed Feb. 11, 2010.)