

MOTION NO. (327/97) KA 11-01735. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JAMEL POWELL, ALSO KNOWN AS GERMAINE ELLISON, ALSO KNOWN AS SPLIFF, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., FAHEY, CARNI, SCONIERS, AND MARTOCHE, JJ. (Filed Dec. 23, 2011.)

MOTION NO. (506/08) KA 05-01253. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MICHAEL W. TIMMONS, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: FAHEY, J.P., GREEN, GORSKI, AND MARTOCHE, JJ. (Filed Dec. 23, 2011.)

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., GREEN, GORSKI, AND MARTOCHE, JJ. (Filed Dec. 23, 2011.)

MOTION NO. (879/11) KAH 10-00962. -- THE PEOPLE OF THE STATE OF NEW YORK EX REL. CHRIS APPLEWHITE, PETITIONER-APPELLANT, V HAROLD D. GRAHAM, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY, RESPONDENT-RESPONDENT. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., SMITH, CARNI, LINDLEY, AND MARTOCHE, JJ. (Filed Dec. 23, 2011.)

MOTION NO. (912/11) CA 11-00639. -- MARGARET BEVAN, PLAINTIFF-APPELLANT, V DESMOND MURRAY, CHRISTINE MURRAY, AND MIKE WESTON, DOING BUSINESS AS MIKE WESTON CONTRACTING, DEFENDANTS-RESPONDENTS. DESMOND MURRAY AND CHRISTINE MURRAY, THIRD-PARTY PLAINTIFFS-RESPONDENTS, V GRAYWOOD PROPERTIES, LLC, THIRD-PARTY DEFENDANT-RESPONDENT. -- Motions for leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., PERADOTTO, CARNI, GREEN, AND GORSKI, JJ. (Filed Dec. 23, 2011.)

MOTION NO. (922/11) CA 11-00241. -- THE ONEIDA INDIAN NATION, A SOVEREIGN NATION, PLAINTIFF-APPELLANT, V HUNT CONSTRUCTION GROUP, INC., DEFENDANT-RESPONDENT. THE ONEIDA INDIAN NATION, A SOVEREIGN NATION, THIRD-PARTY PLAINTIFF, V BRENNAN BEER GORMAN/ARCHITECTS, LLP, THIRD-PARTY DEFENDANT. BRENNAN BEER GORMAN/ARCHITECTS, LLP, FOURTH-PARTY PLAINTIFF-RESPONDENT, V BERTINO & ASSOCIATES, INC., FOURTH-PARTY DEFENDANT-APPELLANT, STEVEN FELLER, P.E., STEVEN FELLER, P.E. INC., STEVEN FELLER, P.E., PL, S. DESIMONE CONSULTING ENGINEERS, PLLC, FOURTH-PARTY DEFENDANTS-RESPONDENTS, ET AL., FOURTH-PARTY DEFENDANTS. -- Motions for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., PERADOTTO, CARNI, GREEN, AND GORSKI, JJ. (Filed Dec. 23, 2011.)

MOTION NO. (958/11) CA 11-00781. -- IN THE MATTER OF ANTHONY SCRO, PETITIONER-RESPONDENT, V BOARD OF EDUCATION OF JORDAN-ELBRIDGE CENTRAL

SCHOOL DISTRICT AND JOHN DOE, TREASURER OR ACTING TREASURER,
JORDAN-ELBRIDGE CENTRAL SCHOOL DISTRICT, RESPONDENTS-APPELLANTS. -- Motion
for reargument or leave to appeal to the Court of Appeals denied.
PRESENT: SCUDDER, P.J., PERADOTTO, GORSKI, AND MARTOCHE, JJ. (Filed Dec.
23, 2011.)

MOTION NO. (959/11) CA 10-02444. -- KAUFMANN'S CAROUSEL, INC.,
PLAINTIFF-APPELLANT, V CAROUSEL CENTER COMPANY LP AND CITY OF SYRACUSE
INDUSTRIAL DEVELOPMENT AGENCY, DEFENDANTS-RESPONDENTS. (ACTION NO. 1.) --
LORD & TAYLOR CAROUSEL, INC., PLAINTIFF-APPELLANT, V CAROUSEL CENTER
COMPANY LP AND CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY,
DEFENDANTS-RESPONDENTS. (ACTION NO. 2.) -- LT PROPCO, LLC,
PLAINTIFF-APPELLANT, V CAROUSEL CENTER COMPANY LP AND CITY OF SYRACUSE
INDUSTRIAL DEVELOPMENT AGENCY, DEFENDANTS-RESPONDENTS. (ACTION NO. 3.) --
Motion for reargument or leave to appeal to the Court of Appeals denied.
PRESENT: SCUDDER, P.J., PERADOTTO, CARNI, GORSKI, AND MARTOCHE, JJ.
(Filed Dec. 23, 2011.)

MOTION NO. (963/11) CA 11-00074. -- YVETTE HUFF, PLAINTIFF-RESPONDENT, V
ANITA L. RODRIGUEZ, FORMERLY KNOWN AS ANITA L. ROSARIO, AND ENRIQUE
RODRIGUEZ, DEFENDANTS-APPELLANTS. -- Motion for leave to appeal to the
Court of Appeals denied. PRESENT: SCUDDER, P.J., PERADOTTO, CARNI,
GORSKI, AND MARTOCHE, JJ. (Filed Dec. 23, 2011.)

MOTION NO. (994/11) KA 08-01129. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V TERRIS HANKS, DEFENDANT-APPELLANT. -- Motion for reargument granted, and upon reargument, the memorandum and order entered September 30, 2011 (87 AD3d 1370) is amended by deleting the fifth sentence of the first paragraph of the memorandum and by deleting the first and second sentences of the second paragraph of the memorandum and substituting the following sentences: "Contrary to the contention of defendant in his main brief with respect to the first warrant and the contention of defendant in his main and pro se supplemental briefs with respect to the fifth amended and extended warrant, the record supports the court's finding that the applications for those warrants established that 'normal investigative procedures ha[d] been tried and ha[d] failed, or reasonably appear[ed] to be unlikely to succeed if tried, or to be too dangerous to employ' (CPL 700.15 [4]; *see People v Rabb*, 16 NY3d 145, 152). In affidavits supporting those warrant applications, a detective detailed the traditional investigative techniques, including but not limited to physical surveillance and the use of confidential informants, that were utilized by Task Force Members beginning four months prior to the issuance of the first warrant and continuing up to the date of the application for the fifth amended and extended warrant." PRESENT: SCUDDER, P.J., SMITH, LINDLEY, SCONIERS, AND GORSKI, JJ. (Filed Dec. 23, 2011.)

MOTION NO. (1003/11) CA 10-02024. -- PATRICIA J. CURTO, PLAINTIFF-APPELLANT, V MARK DIEHL AND MELISSA SCHMIGEL,

DEFENDANTS-RESPONDENTS. (APPEAL NO. 1.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., SMITH, LINDLEY, SCONIERS, AND GORSKI, JJ. (Filed Dec. 23, 2011.)

MOTION NO. (1004/11) CA 10-02025. -- PATRICIA J. CURTO,
PLAINTIFF-APPELLANT, V MARK DIEHL AND MELISSA SCHMIGEL,

DEFENDANTS-RESPONDENTS. (APPEAL NO. 2.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., SMITH, LINDLEY, SCONIERS, AND GORSKI, JJ. (Filed Dec. 23, 2011.)

MOTION NO. (1005/11) CA 10-02026. -- PATRICIA J. CURTO,
PLAINTIFF-APPELLANT, V MARK DIEHL AND MELISSA SCHMIGEL,

DEFENDANTS-RESPONDENTS. (APPEAL NO. 3.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., SMITH, LINDLEY, SCONIERS, AND GORSKI, JJ. (Filed Dec. 23, 2011.)

MOTION NO. (1026/11) CA 11-00423. -- MICHAEL J. LOGRASSO AND PATRICIA A. LOGRASSO, PLAINTIFFS-RESPONDENTS, V CITY OF TONAWANDA, CITY OF TONAWANDA POLICE DEPARTMENT AND MICHAEL E. ROGERS, DEFENDANTS-APPELLANTS. (APPEAL NO. 1.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., FAHEY, SCONIERS, GREEN, AND MARTOCHE, JJ. (Filed Dec. 23, 2011.)

MOTION NO. (1026.1/11) CA 11-00978. -- MICHAEL J. LOGRASSO AND PATRICIA A. LOGRASSO, PLAINTIFFS-RESPONDENTS, V CITY OF TONAWANDA, CITY OF TONAWANDA POLICE DEPARTMENT AND MICHAEL E. ROGERS, DEFENDANTS-APPELLANTS. (APPEAL NO. 2.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., FAHEY, SCONIERS, GREEN, AND MARTOCHE, JJ. (Filed Dec. 23, 2011.)

MOTION NO. (1026.2/11) OP 11-01202. -- IN THE MATTER OF H.H. WARNER, LLC, PETITIONER, V ROCHESTER GENESEE REGIONAL TRANSPORTATION AUTHORITY, RESPONDENT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., FAHEY, SCONIERS, GREEN, AND MARTOCHE, JJ. (Filed Dec. 23, 2011.)

MOTION NO. (1051/11) CA 10-02273. -- JUAN MAZURETT AND THERESA MAZURETT, PLAINTIFFS-RESPONDENTS, V ROCHESTER CITY SCHOOL DISTRICT, DEFENDANT-APPELLANT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: FAHEY, J.P., PERADOTTO, LINDLEY, SCONIERS, AND GREEN, JJ. (Filed Dec. 23, 2011.)

MOTION NO. (1205/11) CA 10-01587. -- IN THE MATTER OF JOSE A. FUENTES, PETITIONER-APPELLANT, V BRIAN FISCHER, COMMISSIONER, NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES, RESPONDENT-RESPONDENT. -- Motion for reargument denied. PRESENT: CENTRA, J.P., FAHEY, PERADOTTO, GREEN, AND

GORSKI, JJ. (Filed Dec. 23, 2011.)

**MOTION NO. (1248/11) KAH 10-02089. -- THE PEOPLE OF THE STATE OF NEW YORK
EX REL. VICTOR WOODARD, PETITIONER-APPELLANT, V HAROLD D. GRAHAM,
SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY, RESPONDENT-RESPONDENT. --**

Motion for leave to appeal to the Court of Appeals denied. PRESENT:
CENTRA, J.P., FAHEY, PERADOTTO, LINDLEY, AND MARTOCHE, JJ. (Filed Dec. 23,
2011.)

**MOTION NO. (1264/11) KA 10-01619. -- THE PEOPLE OF THE STATE OF NEW YORK,
RESPONDENT, V JUAN TORRES, DEFENDANT-APPELLANT. --** Motion to dismiss
granted. Memorandum: The appeal is dismissed as academic, and the matter
is remitted to Erie County Court to vacate the judgment of conviction and
dismiss the indictment either sua sponte or on application by the District
Attorney or the attorney who appeared for appellant (*see People v Matteson*,
75 NY2d 745). PRESENT: SCUDDER, P.J., SMITH, GREEN, GORSKI, AND MARTOCHE,
JJ. (Filed Dec. 23, 2011.)

**KA 09-02299. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SHANE R.
DUNNING, 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. - Driving While Intoxicated). PRESENT: SCUDDER, P.J., CARNI,
LINDLEY, AND MARTOCHE, JJ. (Filed Dec. 23, 2011.)

KAH 10-01337. -- THE PEOPLE OF THE STATE OF NEW YORK EX REL. ERIC HARRIS, PETITIONER-APPELLANT, V NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES, RESPONDENT-RESPONDENT. -- 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, Wyoming County, Mark H. Dadd, J. - Habeas Corpus). PRESENT: SCUDDER, P.J., CARNI, LINDLEY, AND MARTOCHE, JJ. (Filed Dec. 23, 2011.)