

MOTION NO. (1764/96) KA 02-01784. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V DERRICK BROWN, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., SMITH, CARNI, CURRAN, AND BANNISTER, JJ. (Filed Apr. 30, 2021.)

MOTION NO. (608/08) KA 05-01153. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V PRESTON BOYD, DEFENDANT-APPELLANT. -- Motion for reargument denied and motion for leave to appeal to the Court of Appeals held for determination by a Justice of this Court. PRESENT: WHALEN, P.J., CENTRA, LINDLEY, NEMOYER, AND TROUTMAN, JJ. (Filed Apr. 30, 2021.)

MOTION NO. (1545/17) KA 15-01428. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CARLOS K. WHITE, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, LINDLEY, AND WINSLOW, JJ. (Filed Apr. 30, 2021.)

MOTION NO. (965/18) KA 17-00763. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V HAITHEM HASAN, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., CENTRA, LINDLEY, NEMOYER, AND TROUTMAN, JJ. (Filed Apr. 30, 2021.)

MOTION NO. (5/19) KA 16-01991. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V RAYMOND ALSTON, ALSO KNOWN AS RAYMOND AUSTIN, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied.

PRESENT: WHALEN, P.J., CENTRA, NEMOYER, CURRAN, AND WINSLOW, JJ. (Filed Apr. 30, 2021.)

MOTION NO. (78/19) KA 01-01982. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SHONDELL J. PAUL, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: CARNI, J.P., LINDLEY, NEMOYER, CURRAN, AND TROUTMAN, JJ. (Filed Apr. 30, 2021.)

MOTION NO. (1193/19) KA 17-01357. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V WIGBERTO OSORIO, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: CENTRA, J.P., CARNI, LINDLEY, CURRAN, AND TROUTMAN, JJ. (Filed Apr. 30, 2021.)

MOTION NO. (149/20) KA 17-01960. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V BERNARD A. BROOKS, JR., DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., CURRAN, TROUTMAN, WINSLOW, AND BANNISTER, JJ. (Filed Apr. 30, 2021.)

MOTION NO. (480/20) CAF 19-00425. -- IN THE MATTER OF JACIEON M. AND NYLANI R. -- MONROE COUNTY DEPARTMENT OF HUMAN SERVICES, PETITIONER-RESPONDENT; INDIA M., RESPONDENT, AND MARKEEF R., RESPONDENT-APPELLANT. -- Motions for reargument or leave to appeal to the Court of Appeals dismissed as untimely. PRESENT: CARNI, J.P., LINDLEY, CURRAN, TROUTMAN, AND BANNISTER, JJ. (Filed Apr. 30, 2021.)

MOTION NO. (517/20) CA 19-01065. -- JOSEPH VENDETTI,
PLAINTIFF-RESPONDENT-APPELLANT, V STEPHEN ZYWIAK, MICHAEL SHAMMA, BRIAN
HOFFMAN, KATHLEEN FREDERICK, DEFENDANTS-APPELLANTS-RESPONDENTS, ET AL.,
DEFENDANTS. (APPEAL NO. 1.) -- Motion for reargument or leave to appeal to
the Court of Appeals denied. PRESENT: WHALEN, P.J., SMITH, CARNI,
NEMOYER, AND CURRAN, JJ. (Filed Apr. 30, 2021.)

MOTION NO. (518/20) CA 19-01990. -- JOSEPH VENDETTI, PLAINTIFF-RESPONDENT,
V STEPHEN ZYWIAK, MICHAEL SHAMMA, BRIAN HOFFMAN, KATHLEEN FREDERICK,
DEFENDANTS-APPELLANTS, ET AL., DEFENDANTS. (APPEAL NO. 2.) -- Motion for
reargument or leave to appeal to the Court of Appeals denied. PRESENT:
WHALEN, P.J., SMITH, CARNI, NEMOYER, AND CURRAN, JJ. (Filed Apr. 30,
2021.)

MOTION NO. (760/20) CA 20-00192. -- JAMES A. GARDNER, PLAINTIFF-APPELLANT,
V WHITNEY ALLYSON ZAMMIT, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF KATE
RIGHTER GARDNER, DECEASED, DEFENDANT-RESPONDENT. -- Motion for reargument
denied. PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, LINDLEY, AND BANNISTER,
JJ. (Filed Apr. 30, 2021.)

MOTION NO. (761/20) CA 20-00203. -- SHEILA (BAILEY) MILLER, AS
ADMINISTRATRIX OF THE ESTATE OF THOMAS J. MILLER, DECEASED, AND SHEILA
(BAILEY) MILLER, INDIVIDUALLY, PLAINTIFF-RESPONDENT-APPELLANT, V PATRICIA

A. MILLER, AS EXECUTOR OF THE ESTATE OF MARK MENDY, DECEASED, DEFENDANT, AND MOOG, INC., DEFENDANT-APPELLANT-RESPONDENT. -- Motion for reargument denied. PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, LINDLEY, AND BANNISTER, JJ. (Filed Apr. 30, 2021.)

MOTION NO. (989/20) CA 20-00221. -- IN THE MATTER OF ARNOLD R. PETRALIA, PETITIONER-APPELLANT, V NEW YORK STATE DEPARTMENT OF LABOR, RESPONDENT-RESPONDENT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, NEMOYER, AND TROUTMAN, JJ. (Filed Apr. 30, 2021.)

MOTION NO. (1233/20) CAF 19-00663. -- IN THE MATTER OF BEULAH J., IVORY J. AND EBONY J. ONONDAGA COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, PETITIONER-RESPONDENT; DARLENE H., RESPONDENT, AND JOHNNY J., RESPONDENT-APPELLANT. KIMBERLY M. SEAGER, ESQ., ATTORNEY FOR THE CHILD, APPELLANT. -- Motion for reargument be and the same hereby is granted to the extent that, upon reargument, the memorandum and order entered February 5, 2021 (191 AD3d 1395 [4th Dept 2021]) is amended by deleting the second sentence of the second paragraph of the memorandum and adding the phrase, ", that he received ineffective assistance of counsel," immediately following the citation in the second sentence of the third paragraph of the memorandum. PRESENT: CENTRA, J.P., LINDLEY, NEMOYER, TROUTMAN, AND BANNISTER, JJ. (Filed Apr. 30, 2021.)

MOTION NO. (27/21) KA 19-01949. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SALVATORE LETIZIA, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: CARNI, J.P., LINDLEY, CURRAN, TROUTMAN, AND BANNISTER, JJ. (Filed Apr. 30, 2021.)

KA 19-00086. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V KNOWLEDGE COUSER, 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 a judgment convicting him of murder in the second degree (Penal Law § 125.25 [1]) and sentencing him to an indeterminate term of imprisonment of 20 years to life. Defendant's assigned appellate counsel has moved to be relieved of the assignment pursuant to *People v Crawford* (71 AD2d 38 [4th Dept 1979]). However, upon a review of the record we conclude that nonfrivolous issues exist as to whether defendant actually entered a guilty plea (*cf. People v Keitz*, 99 AD3d 1254, 1255 [4th Dept 2012], *lv denied* 20 NY3d 1012 [2013], *cert denied* 571 US 993 [2013]), whether the court erred in failing, *sua sponte*, to conduct a competency hearing pursuant to CPL 730.30 (2), and whether defendant's waiver of the right to appeal was valid. Therefore, we 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 Judgment of Wayne County Court, Daniel G. Barrett, J. - Murder, 2nd Degree). PRESENT: CARNI, J.P., LINDLEY, NEMOYER, CURRAN,

AND BANNISTER, JJ. (Filed Apr. 30, 2021.)

KA 18-00711. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V TIMOTHY C. IRVIN, DEFENDANT-APPELLANT. Motion to dismiss granted. Memorandum: The matter is remitted to Chautauqua County Court to vacate the judgment of conviction and dismiss the indictment (*see People v Matteson*, 75 NY2d 745 [1989]). PRESENT: WHALEN, P.J., SMITH, CENTRA, PERADOTTO, AND CARNI, JJ. (Filed Apr. 30, 2021.)

KA 17-00105. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V RASHAWN D. JOHNSON, 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 (*see People v Matteson*, 75 NY2d 745 [1989]). PRESENT: WHALEN, P.J., SMITH, CENTRA, PERADOTTO, AND CARNI, JJ. (Filed Apr. 30, 2021.)

KA 17-01690. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V WILLIAM H. KELLER, SR., 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 (*see People v Matteson*, 75 NY2d 745 [1989]). PRESENT: WHALEN, P.J., SMITH, CENTRA, PERADOTTO, AND CARNI, JJ. (Filed Apr. 30, 2021.)

KA 17-01361. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JERMAINE
E. SHELTON, DEFENDANT-APPELLANT. Motion to dismiss granted. Memorandum:
The matter is remitted to Supreme Court, Monroe County, to vacate the
judgment of conviction and dismiss the indictment (see *People v Matteson*,
75 NY2d 745 [1989]). PRESENT: WHALEN, P.J., SMITH, CENTRA, PERADOTTO, AND
CARNI, JJ. (Filed Apr. 30, 2021.)