

MOTION NO. (1507/01) KA 98-05285. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SHON LUCIUS, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, PERADOTTO, CARNI, AND WHALEN, JJ. (Filed June 28, 2013.)

MOTION NO. (1295/04) KA 02-01133. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JOSEPH WRIGHT, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, FAHEY, LINDLEY, AND MARTOCHE, JJ. (Filed June 28, 2013.)

MOTION NO. (117/07) KA 04-00878. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V GEORGE T. COTTON, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., FAHEY, PERADOTTO, WHALEN, AND MARTOCHE, JJ. (Filed June 28, 2013.)

MOTION NO. (940/10) KA 08-02540. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V GEORGE HARRIS, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: CENTRA, J.P., CARNI, LINDLEY, VALENTINO, AND MARTOCHE, JJ. (Filed June 28, 2013.)

MOTION NO. (977/10) KA 06-00672. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V KEITH LASTER, DEFENDANT-APPELLANT. (APPEAL NO. 1.) -- Motion for writ of error coram nobis denied. PRESENT: CENTRA, J.P., FAHEY, PERADOTTO, LINDLEY, AND SCONIERS, JJ. (Filed June 28, 2013.)

MOTION NO. (978/10) KA 06-00673. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V KEITH LASTER, DEFENDANT-APPELLANT. (APPEAL NO. 2.) -- Motion for writ of error coram nobis denied. PRESENT: CENTRA, J.P., FAHEY, PERADOTTO, LINDLEY, AND SCONIERS, JJ. (Filed June 28, 2013.)

MOTION NO. (1340/10) KA 09-01555. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MARVIN DYE, JR., DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., FAHEY, LINDLEY, AND SCONIERS, JJ. (Filed June 28, 2013.)

MOTION NO. (72/11) KA 09-01374. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SAMUEL T. TOLIVER, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., FAHEY, CARNI, SCONIERS, AND MARTOCHE, JJ. (Filed June 28, 2013.)

MOTION NO. (1331/11) KA 09-01810. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V LEROY TUFF, JR., 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, the jury's verdict was against the weight of the evidence. Upon our review of the motion papers, we conclude that the issue may have merit. Therefore, the order of December 30, 2011 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 September 26, 2013. PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, WHALEN, AND MARTOCHE, JJ. (Filed June 28, 2013.)

MOTION NO. (532/12) KA 10-02124. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ALLEN MORRIS, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, SCONIERS, AND MARTOCHE, JJ. (Filed June 28, 2013.)

MOTION NO. (748.1/12) KA 05-00172. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CYRIL WINEBRENNER, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, FAHEY, PERADOTTO, AND SCONIERS, JJ. (Filed June 28, 2013.)

MOTION NO. (59/13) CA 12-01288. -- SHAWN GILES, ALSO KNOWN AS SHAWN ANTHONY COFFEE, PLAINTIFF-APPELLANT, V A. GI YI, GERALD BREEN, DEFENDANTS-RESPONDENTS, ET AL., DEFENDANTS. -- Motion for reargument denied. Motion for leave to appeal to the Court of Appeals granted. PRESENT: SCUDDER, P.J., PERADOTTO, CARNI, WHALEN, AND MARTOCHE, JJ. (Filed June 28, 2013.)

MOTION NO. (208/13) CA 12-00188. -- JOSEPH LAUZONIS, PLAINTIFF-RESPONDENT, V COLLEEN LAUZONIS, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: SMITH, J.P., PERADOTTO, CARNI, VALENTINO, AND MARTOCHE, JJ.

(Filed June 28, 2013.)

MOTION NO. (215/13) CA 12-01857. -- TONYA TIEDE,
PLAINTIFF-RESPONDENT-APPELLANT, V FRONTIER SKYDIVERS, INC., HOLLANDS
INTERNATIONAL FIELD AIRPORT, AL HOLLANDS, DAYSTAR TRADING & VENTURES, LLC,
PAUL GATH, DEFENDANTS-APPELLANTS-RESPONDENTS, ET AL., DEFENDANTS. (APPEAL
NO. 1.) -- Motion for reargument denied. PRESENT: SMITH, J.P., PERADOTTO,
CARNI, VALENTINO, AND MARTOCHE, JJ. (Filed June 28, 2013.)

MOTION NO. (216/13) CA 12-01861. -- TONYA TIEDE,
PLAINTIFF-RESPONDENT-APPELLANT, V FRONTIER SKYDIVERS, INC., HOLLANDS
INTERNATIONAL FIELD AIRPORT, AL HOLLANDS, DAYSTAR TRADING & VENTURES, LLC,
PAUL GATH, DEFENDANTS-APPELLANTS-RESPONDENTS, ET AL., DEFENDANTS. (APPEAL
NO. 2.) -- Motion for reargument denied. PRESENT: SMITH, J.P., PERADOTTO,
CARNI, VALENTINO, AND MARTOCHE, JJ. (Filed June 28, 2013.)

MOTION NO. (264/13) CA 12-01303. -- INEZ BIELECKI, PLAINTIFF-RESPONDENT, V
RICHARD BIELECKI, DEFENDANT-APPELLANT. -- Motion for reargument or leave to
appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., FAHEY,
SCONIERS, VALENTINO, AND WHALEN, JJ. (Filed June 28, 2013.)

MOTION NO. (286/13) CA 12-00920. -- IN THE MATTER OF EMMANUEL PATTERSON,
PETITIONER-RESPONDENT, V ANDREA W. EVANS, CHAIRWOMAN, NEW YORK STATE

DIVISION OF PAROLE, AND MALCOLM R. CULLY, SUPERINTENDENT, COLLINS
CORRECTIONAL FACILITY, RESPONDENTS-APPELLANTS. -- Motion for reargument or
leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J.,
PERADOTTO, CARNI, LINDLEY, AND WHALEN, JJ. (Filed June 28, 2013.)

MOTION NO. (355/13) CA 12-01574. -- CHRISTOPHER HAMILTON,
PLAINTIFF-APPELLANT, V JOHN MILLER, DAVID MILLER, JULES MUSINGER, DOUG
MUSINGER, AND SINGER ASSOCIATES, DEFENDANTS-RESPONDENTS. -- Motion for
reargument denied. Motion for leave to appeal to the Court of Appeals
granted. PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, VALENTINO, AND WHALEN,
JJ. (Filed June 28, 2013.)

MOTION NO. (371/13) CA 12-02126. -- IN THE MATTER OF BUFFALO PROFESSIONAL
FIREFIGHTERS ASSOCIATION, INC., IAFF LOCAL 282, PETITIONER-APPELLANT, V
BUFFALO FISCAL STABILITY AUTHORITY, CITY OF BUFFALO AND BYRON BROWN, MAYOR,
CITY OF BUFFALO, RESPONDENTS-RESPONDENTS. -- Motion for reargument or leave
to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., SMITH,
CENTRA, AND CARNI, JJ. (Filed June 28, 2013.)

MOTION NO. (435/13) TP 12-02002. -- IN THE MATTER OF JAMES M. WEST,
PETITIONER, V MICHAEL SHEAHAN, SUPERINTENDENT, FIVE POINTS CORRECTIONAL
FACILITY, RESPONDENT. -- Motion to appeal denied. PRESENT: CENTRA, J.P.,
FAHEY, CARNI, WHALEN, AND MARTOCHE, JJ. (Filed June 28, 2013.)

MOTION NO. (498/13) CA 12-02137. -- SAMUEL TOMAINO, PLAINTIFF-APPELLANT, V THOMAS MAROTTA, JR., DEFENDANT-RESPONDENT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., CENTRA, CARNI, SCONIERS, AND MARTOCHE, JJ. (Filed June 28, 2013.)

KAH 12-01264. -- THE PEOPLE OF THE STATE OF NEW YORK EX REL. LEROY PEOPLES, PETITIONER-APPELLANT, V NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES, RESPONDENT-RESPONDENT. -- 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: Petitioner appeals from a judgment of Supreme Court that denied his petition for a writ of habeas corpus. Assigned counsel for petitioner moves to be relieved of the assignment on the ground that there are no appealable issues (*see People v. Crawford*, 71 AD2d 38). Upon a review of the record, we conclude that a nonfrivolous issue exists as to whether Supreme Court erred in denying the petition (*see People ex rel. Keitt v McMann*, 18 NY2d 257). We therefore relieve counsel of his 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 [Denominated Order] of Supreme Court, Wyoming County, Mark H. Dadd, J. - Habeas Corpus). PRESENT: SCUDDER, P.J., PERADOTTO, LINDLEY, WHALEN, AND MARTOCHE, JJ. (Filed June 28, 2013.)