

**MOTION NO. (1025/16) KA 14-01504. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V RAYSHAWN BETHANY, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., CENTRA, PERADOTTO, LINDLEY, AND CURRAN, JJ. (Filed Jan. 28, 2022.)

**MOTION NO. (32/18) KA 14-02203. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V TALYN D. WILLIAMS, DEFENDANT-APPELLANT.** -- Motion for reargument denied. PRESENT: SMITH, J.P., CENTRA, NEMOYER, CURRAN, AND WINSLOW, JJ. (Filed Jan. 28, 2022.)

**MOTION NO. (1180/20) KA 16-02366. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V TINA L. WAGONER, DEFENDANT-APPELLANT.** -- Motion for reargument denied. PRESENT: CARNI, J.P., LINDLEY, NEMOYER, CURRAN, AND WINSLOW, JJ. (Filed Jan. 28, 2022.)

**MOTION NO. (229/21) KA 18-02388. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ANTHONY FUDGE, DEFENDANT-APPELLANT.** -- Motion for reargument be and the same hereby is dismissed on the ground that Kristen N. McDermott lacks standing to move for reargument or reconsideration of this appeal (see CPL 470.50[1]; *Marine Midland Bank-Central v Gleason*, 47 NY2d 1009, 1009 [1979]; *Judd v Odell*, 254 AD2d 841, 841 [4th Dept 1998]).

Now, on the Court's own motion,

It is hereby ORDERED that the opinion and order entered August 26, 2021 (199 AD3d 16 [4th Dept 2021]) is vacated and the following memorandum and order is substituted therefor:

Appeal from a judgment of the Supreme Court, Onondaga County (Gordon J. Cuffy, A.J.), rendered August 10, 2018. The judgment convicted defendant, upon his plea of guilty, of criminal possession of a controlled substance in the fourth degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him, upon his plea of guilty, of criminal possession of a controlled substance in the fourth degree (Penal Law § 220.09 [1]). Supreme Court properly refused to suppress physical evidence discovered during a vehicle search. Contrary to defendant's contention, a trained police officer's detection of the scent of street-level PCP constitutes probable cause to search the location from which the scent emanates (*see Sanchez v City of New York*, 168 AD3d 584, 585 [1st Dept 2019]; *People v Darby*, 263 AD2d 112, 113-114 [1st Dept 2000], *lv denied* 95 NY2d 795 [2000]; *see also United States v Glover*, 681 F3d 411, 418 [DC Cir 2012], *cert denied* 568 US 995 [2012]; *United States v Hubert*, 48 Fed Appx 481, 481 [5th Cir 2002], *cert denied* 537 US 1146 [2003]; *Minnick v United States*, 607 A2d 519, 525 [DC 1992])). Contrary to defendant's further contention, there is no basis to disturb the suppression court's credibility determination (*see People v Carmona*, 149 AD3d 670, 671 [1st Dept 2017], *lv denied* 29 NY3d 1090 [2017]; *see also*

*Darby*, 263 AD2d at 113-114; see generally *People v Prochilo*, 41 NY2d 759, 761 [1977]). The sentence is not unduly harsh or severe. PRESENT: CENTRA, J.P., CARNI, NEMOYER, WINSLOW, AND BANNISTER, JJ. (Filed Jan. 28, 2022.)

MOTION NO. (681/21) OP 20-01405. -- IN THE MATTER OF COALITION OF CONCERNED CITIZENS AND DENNIS GAFFIN, AS ITS PRESIDENT, PETITIONERS, V NEW YORK STATE BOARD ON ELECTRIC GENERATION SITING AND THE ENVIRONMENT AND ALLE-CATT WIND ENERGY, LLC, RESPONDENTS. (PROCEEDING NO. 1.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: WHALEN, P.J., SMITH, LINDLEY, AND WINSLOW, JJ. (Filed Jan. 28, 2022.)

MOTION NO. (770/21) KAH 20-01142. -- THE PEOPLE OF THE STATE OF NEW YORK EX REL. GERMAINE BROWN, PETITIONER-APPELLANT, V STATE OF NEW YORK DEPARTMENT OF CORRECTIONS, RESPONDENT-RESPONDENT. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: PERADOTTO, J.P., CARNI, LINDLEY, WINSLOW, AND BANNISTER, JJ. (Filed Jan. 28, 2022.)

MOTION NOS. (783-786/21) CA 20-01294, CA 20-01590, CA 21-00498 AND CA 21-00499. -- IN THE MATTER OF DANIEL W. GERBER, FRANK J. CIANO, WILLIAM G. KELLY, PAUL S. DEVINE, JOHN J. JABLONSKI AND DENNIS J. BRADY, PETITIONERS-APPELLANTS, V GOLDBERG SEGALLA LLP, RESPONDENT-RESPONDENT. (APPEAL NOS. 1-4) -- Motion for leave to appeal to the Court of Appeals

denied. PRESENT: PERADOTTO, J.P., CARNI, LINDLEY, WINSLOW, AND BANNISTER, JJ. (Filed Jan. 28, 2022.)

**MOTION NO. (787/21) KA 18-02204. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JOSE MEJIA, DEFENDANT-APPELLANT.** -- Motion for reargument denied. PRESENT: SMITH, J.P., CENTRA, LINDLEY, WINSLOW, AND BANNISTER, JJ. (Filed Jan. 28, 2022.)

**MOTION NO. (927/21) KA 19-01993. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V GARY S. LOBES, DEFENDANT-APPELLANT.** -- Motion for reargument denied. PRESENT: CENTRA, J.P., LINDLEY, CURRAN, WINSLOW, AND BANNISTER, JJ. (Filed Jan. 28, 2022.)