

DATE NAME OF CASE (DOCKET NUMBER)

8-27-15 State v. Jamil McKinney (A-74/75-13; 073070)
State v. Al-Tariq Wardrick (A-76-13; 073078)

The trial court's references to second-degree robbery in the course of the jury instructions were erroneous. Its subsequent efforts to cure the error were confusing and ineffective. Thus, the instruction constituted reversible error. The judgment of the Appellate Division in State v. Wardrick is reversed as to his conviction for first-degree robbery, and the matter is remanded to the trial court for proceedings consistent with this opinion. The judgment is affirmed in all other respects. The judgment of the Appellate Division in State v. McKinney is affirmed.

8-26-15 H.S.P. v. J.K. (A-114-13; 074241)
K.G. v. M.S. (Deceased) (A-117-13; 074527)

When faced with a request for an SIJ predicate order, the Family Part's sole task is to apply New Jersey law to make factual findings with regard to each of the requirements listed in 8 C.F.R. § 204.11. The Family Part does not have jurisdiction to grant or deny applications for immigration relief.

8-20-15 Department of Children & Families v. E.D.-O. (A-109-13; 073916)

N.J.S.A. 9:6-8.21(c)(4)(b) requires a finding that the parent's conduct presents an imminent risk of harm to the child at the time of the event that triggered the Division's intervention. In addition, the determination of whether a parent's conduct is negligent or grossly negligent requires an evaluation of the totality of the circumstances, which can only occur through a hearing. The Division should have referred E.D.-O.'s appeal to the OAL for a hearing.

8-19-15 State v. Thomas Shannon (A-111-13; 074315)

The judgment of the Appellate Division is affirmed by an equally divided Court. The arresting officer's good faith belief that a valid warrant for defendant's arrest was outstanding cannot render an arrest made in the absence of a valid warrant or probable cause constitutionally compliant.

8-18-15 State v. Humfrey A. Musa (A-78-13; 073268)

Juror Number 2's failure to appear for the second day of deliberations amounted to an "inability to continue" under Rule 1:8-2(d)(1) and substituting an alternate juror for the missing juror was permissible. The matter is remanded to the Appellate Division to address the issue it did not reach: whether the trial court's failure to give an identification charge denied defendant a fair trial.

8-17-15 State v. Michael A. Maltese (A-96-13; 073584)

Because defendant's statement to his uncle occurred after officers violated his Fifth Amendment right to remain silent, that statement is inadmissible. Defendant's subsequent statement to police was fruit of the unconstitutionally obtained statement to his uncle and must also be suppressed. Thus, defendant's convictions for manslaughter and murder are reversed. His other convictions are affirmed because they are supported by evidence independent of the suppressed statements. On remand, the trial court shall conduct a pretrial hearing to determine whether the physical evidence obtained as a result of defendant's suppressed statements is admissible under the inevitable discovery exception to the exclusionary rule.

8-13-15 Citizens United Reciprocal Exchange v. Sabrina A. Perez, et al. (A-67-13; 073384)

Where a policyholder elects to add the basic policy's optional \$10,000 coverage for third-party bodily injury in the original contract, the insurer shall be liable to innocent third parties for the contracted \$10,000 amount as the minimal amount available under

New Jersey's compulsory system of automobile insurance coverage, even when that basic policy is later voided due to a fraudulent application. In contrast, when an insured elects not to add the basic policy's optional \$10,000 coverage in their original contract, the insurer shall not be held liable to any injured, innocent third-party claimants under that contract.

8-12-15 Cuiyun Qian v. Toll Brothers, Inc. (A-95-13; 073982)

The immunity of a property owner from claims for injuries on a public sidewalk addressed in Luhejko does not apply to bar a claim for personal injuries against the homeowners association and management company of the common-interest community because the sidewalk on which plaintiff fell on ice constitutes a private sidewalk, as it is part of the common area owned by the homeowners association, and the association's by-laws and statutory obligations require the association to manage and maintain the community's common areas.

8-11-15 Hon. Dana L. Redd v. Vance Bowman (A-71/72/73-13; 073567)

The Faulkner Act initiated, proposed ordinance does not constitute an unlawful restraint on the future exercise of the City of Camden's legislative power and is not preempted by the Municipal Rehabilitation and Economic Recovery Act or any of the state's fiscal statutes. However, the ordinance, as drafted, is out of date, inaccurate, and misleading. The challenge to the police reorganization must start anew with an ordinance that reflects the facts as they now stand.

8-10-15 In the Matter of the Expungement Petition of J.S. (A-84-13; 073376)

In the Matter of the Expungement of the Criminal Records of G.P.B. (A-2-14; 074541)

The plain language of N.J.S.A. 2C:52-2(a) precludes expungement of convictions when the petitioner has been convicted of multiple crimes, even when those crimes occurred within a short span of time.

8-6-15 John Ross v. Karen Lowitz (A-101-13; 074200)

The Court finds no basis for the claims of private nuisance or trespass against the homeowner defendants because there exists no proof of negligence, recklessness, intentional conduct, or the conduct of an abnormally dangerous activity, by these parties. Additionally, the Court declines to expand these causes of action to impose strict liability upon defendants. Plaintiffs cannot proceed with a direct claim against the defendant insurers for breach of the implied covenant of good faith and fair dealing contained in the insurance contracts because they do not hold an assignment of rights from the named insured, and there is no evidence that the named insured or her insurers agreed to recognize plaintiffs as third-party beneficiaries of the insurance contracts.

8-5-15 State v. Elise N. Munafo (A-6-14; 074142)

When the Legislature enacted the endangering statute, N.J.S.A. 2C:12-1.2, it chose to punish a defendant's knowing behavior -- leaving the scene under circumstances that might well lead to greater harm to a victim -- but did not require a showing of increased risk of further harm. Because the jury charge in this case tracked the statute as written, it was not error to omit the element defendant now requests.

8-4-15 State v. Dontae Hathaway (A-69-13; 073770)

Viewing the events as they appeared to an objectively reasonable police officer, and based on the evidence presented by the State at the suppression hearing, the police acted within the scope of the emergency-aid exception to the warrant requirement, and the gun should not have been suppressed.

8-3-15 State v. Duran C. Keaton (A-92-13; 073564)

The law enforcement officer was required to provide defendant with the opportunity to present his credentials before entering the vehicle. If after giving a defendant that opportunity, he or she is unable or unwilling to produce the registration or insurance information, only then may an officer conduct a search for those credentials. Here, because defendant was never provided with such an opportunity, the seizure of the contraband was unlawful under the plain view doctrine. Further, the community-caretaking doctrine was inapplicable because there was no need for an immediate warrantless search to preserve life or property.

7-30-15 State v. James Buckner (A-22-14; 074390)

Defendant has failed to show beyond a reasonable doubt that the Recall Statute is clearly repugnant to the New Jersey Constitution. To the contrary, the current law, in effect since 1975, is consistent with both the language and the history of the modern State Constitution, and does not violate the separation of powers doctrine.

7-29-15 Elizabeth Gnall v. James Gnall (A-52-13; 073321)

In determining a request for alimony, all of the factors enumerated in N.J.S.A. 2A:14-23(b) must be considered; the duration of the marriage is only one such factor. The Appellate Division erroneously created a bright-line rule that a fifteen-year marriage requires an award of permanent alimony, contrary to the need to consider all of the statutory factors. The trial court also improperly relied upon the duration of the marriage over the other statutory factors in determining that, since the marriage was not one of twenty-five to thirty years, permanent alimony was not warranted, and therefore awarded limited duration alimony.

7-28-15 Rolando Fernandes v. DAR Development Corp. (A-37-13; 073001)

In negligence claims by injured workers against third parties, there is no sound reason to depart from settled precedent that an employee's negligence may be submitted to the jury when evidence has been adduced that the injured employee unreasonably confronted a known risk and had no meaningful choice in the manner in which he completed the task. Here, the evidence produced at trial provided no basis to submit the issue of plaintiff's negligence to the jury.

7-20-15 State v. Evan Reece (A-79/80-13; 073284)

The emergency-aid doctrine justified the officers' warrantless entry into defendant's home. Based thereon, defendant's conviction for resisting arrest is affirmed, and defendant's conviction for obstruction is reinstated.

7-16-15 Allstate New Jersey Insurance Co. v. Gregorio Lajara (A-70-13; 073511)

The right to a civil jury trial provided by Article I, Paragraph 9 of the New Jersey Constitution applies to private-action claims seeking compensatory and punitive damages under the Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30.

7-15-15 Joel S. Lippman, M.D. v. Ethicon, Inc. and Johnson & Johnson, Inc. (A-65/66-13; 073324)

CEPA's protections extend to the performance of regular job duties by watchdog employees. Unless and until the Legislature expresses its intent to differentiate among the classes of employees who are entitled to CEPA protection, there can be no additional burden imposed on watchdog employees seeking CEPA protection.

7-14-15 IMO Borough of Keyport v. Local 68 (A-43/44-13; 072361)

The three municipalities in this case acted for reasons of economy based on municipal fiscal distress

existing at the time, rendering the management choice to use a temporary or permanent layoff solution one that constituted a managerial prerogative not subject to negotiation. The layoff actions at issue in this consolidated appeal constituted non-negotiable subjects under prong three of the Local 195 test for negotiability. Local 195, IFPTE v. State, 88 N.J. 393 (1982).

7-13-15 Eric Morillo v. Monmouth County Sheriff's Officers (A-88-13; 073978)

The civil rights causes of action against the officers should have been dismissed based on the affirmative defense of qualified immunity.

7-7-15 In the Matter of Registrant N.B. (A-94-13; 073613)

A 2004 amendment defining the term "sole sex offense" indicates that the household/incest exception applies to the conviction here: a single conviction for a violation of N.J.S.A. 2C:14-2(b), "under circumstances in which the offender [is] related to the victim by blood or affinity to the third degree," notwithstanding the offender's admission to multiple acts of sexual contact against the victim. Therefore, N.B. is within the household/incest exception of N.J.S.A. 2C:7-13(d)(2). The matter is remanded to the trial court for a determination as to whether N.B.'s registration record should be made available to the public, notwithstanding the applicability of the household/incest exception.

6-29-15 State v. Marc A. Olivero (A-83-13; 073364)

A fenced-in and locked lot is a "structure" within the meaning of N.J.S.A. 2C:18-2 when the lot is secured from the public and is used for business purposes. Here, when defendant entered the lot to remove metal rollers, he entered a "place ... adapted for carrying on business," as a "structure" is defined under the statute. Defendant's conviction for third-degree burglary is affirmed.

6-25-15 State v. Darien Weston (A-61-13; 073032)

Given the content of the statements, and the strength of the other evidence presented by the State, the trial courts' decisions permitting the juries access to the pretrial statements did not constitute plain error.

6-24-15 State v. Terrell L. Hubbard (A-56-13; 073539)

Where a trial court relies on evidence in addition to a videotaped statement, including testimony presented to it, traditional rules of appellate review control and require deference to the findings of fact and credibility assessments made by the trial court. An appellate panel must therefore review the entire record to determine if the factual findings are supported by substantial credible evidence, rather than engage in de novo review of the record. Under this deferential standard of review, the trial court properly concluded, based on its review of the entire record, that defendant was the subject of a custodial investigation and therefore should have been given Miranda warnings.

6-23-15 State v. Ivonne Saavedra (A-68-13; 073793)

The trial court properly denied defendant's motion to dismiss her indictment. The State presented to the grand jury a prima facie showing with respect to the elements of each offense charged in the indictment and the State did not withhold from the grand jury exculpatory information or a charge regarding a defense that it was compelled by law to present. Defendant's indictment does not violate due process standards or New Jersey public policy by conflicting with this Court's decision in Quinlan, which does not govern the application of the criminal laws at issue in this appeal.

6-18-15 State v. William Roseman and Lori Lewin (A-105/106-13; 073674)

Defendants have demonstrated extraordinary circumstances to overcome the presumption against Pretrial Intervention (PTI) for second-degree offenses and there is no factual justification for the application of the factors set forth by the prosecutor under N.J.S.A. 2C:43-12(e). Denial of defendants' applications to Pretrial Intervention (PTI) by the prosecutor was plainly a patent and gross abuse of discretion.

6-17-15 State v. Aakash A. Dalal (A-50-14; 075325)

Not all threats or efforts to intimidate a judge will require recusal. However, given the serious nature of the threat, the absence of any proof of manipulation, the potential introduction of the evidence in one of the trials, and the relationships among judges within the Bergen Vicinage, a reasonable, fully informed observer could have doubts about a Bergen County judge's impartiality. In light of recent developments, the matter is remanded to the Bergen County assignment judge for further proceedings consistent with this opinion.

6-16-15 State v. Edwin Urbina (A-49-13; 073209)

The trial court's failure to make further inquiry into defendant's apparent assertion of self-defense, including ensuring that defendant truly understood the law of self-defense and that the State bears the burden of disproving self-defense once asserted, renders it unclear whether defendant's plea was truly knowing, intelligent, and voluntary and requires vacation of his plea of guilty to aggravated manslaughter.

6-15-15 Richard Grabowsky v. Township of Montclair (A-53-13; 073142)

Applying the statutory standards set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-1 to -163 (MLUL), and the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 to -22.25 (LGEL), as well as established common law authority, when a church or other

organization owns property within 200 feet of a site that is the subject of a zoning application, public officials who currently serve in substantive leadership positions in the organization, or who will imminently assume such positions, are disqualified from voting on the application.

6-11-15 Estate of Myroslava Kotsovska v. Saul Liebman (A-89-13; 073861)

When there is a genuine dispute regarding a worker's employment status, and the plaintiff elects to file a complaint only in the Superior Court Law Division, the Superior Court has concurrent jurisdiction to resolve the dispute.

6-9-15 Christopher Burgos v. State of New Jersey (A-55-14; 075736)

Chapter 78 does not create a legally enforceable contract that is entitled to constitutional protection. The Debt Limitation Clause of the State Constitution interdicts the creation, in this manner, of a legally binding enforceable contract compelling multi-year financial payments in the sizable amounts called for by the statute.

5-28-15 Gaskill v. CITI Mortgage, Inc. (A-51-13; 071804)

The judgment of the Appellate Division is AFFIRMED substantially for the reasons expressed in Judge Cuff's opinion.

5-27-15 Nuwave Investment Corp. v. Hyman Beck & Co. (A-81-13; 073551)

The judgment of the Appellate Division is AFFIRMED substantially for the reasons expressed in Judge Messano's opinion. The matter requires a new trial on damages in which the jury is properly instructed on the various categories of damages and is informed of the limited role of presumed damages, as described in W.J.A. v. D.A., 210 N.J. 229 (2012).

5-19-15 State v. Ricky Wright (A-64-13; 073137)

The third-party intervention or private search doctrine does not exempt law enforcement's initial search of defendant's home from the warrant requirement. Absent exigency or some other exception to the warrant requirement, the police must get a warrant to enter a private home and conduct a search, even if a private actor has already searched the area and notified law enforcement.

5-7-15 Robert Occhifinto v. Olivo Construction Company (A-77-13; 073174)

Occhifinto was a successful claimant entitled to counsel fees under Rule 4:42-9(a)(6). In the declaratory judgment action, the trial court properly concluded that Mercer would be required to indemnify Keppler in the event Keppler was found liable, and therefore determined that the liability action alleged claims that, if proven, would fall within the coverage of Keppler's liability policy with Mercer. That determination had the practical effect of enforcing Mercer's duty to defend. By forcing Mercer to defend the liability action, Occhifinto obtained a favorable adjudication on the merits on a coverage question as the result of the expenditure of counsel fees, rendering Occhifinto a successful claimant under Rule 4:42-9(a)(6).

5-6-15 Bridgewater-Raritan Education Association v. Board of Education of the Bridgewater-Raritan School District (A-85-13; 073873)

N.J.S.A. 18A:16-1.1 requires a board of education to give an employee notice of his or her designation as a "replacement." With respect to the claim of Tamara Manzur, a genuine issue of material fact exists regarding whether she was provided such notice as to her status during the 2007-08 school year.

5-5-15 388 Route 22 Readington Realty Holdings, LLC v. Township of Readington (A-63-13; 073322)

A blanket policy of not recapturing unused sewer capacity is the functional equivalent of a moratorium on development. The Court approves of the trial court's approach, requiring the Township both to undertake a detailed analysis of the unused capacity in the hands of private parties and to explain whether any of that capacity can be recalled.

5-4-15 State v. Timothy Adkins (A-91-13; 073803)

McNeely's pronouncement on the Fourth Amendment's requirements must apply retroactively to cases that were in the pipeline when McNeely was issued. Accordingly, the Appellate Division's judgment is reversed. The matter is remanded to allow the State and defendant the opportunity to re-present their respective positions on exigency in a hearing on defendant's motion to suppress the admissibility of the blood test results. In that hearing, potential dissipation of the evidence may be given substantial weight as a factor to be considered in the totality of the circumstances. The reviewing court must focus on the objective exigency of the circumstances faced by the officers.

4-30-15 State v. Perini Corporation (A-121/122/123/135-11; 070558)

The statute of repose does not begin to run on claims involving an improvement that serves an entire project such as a high temperature hot water (HTHW) system -- including those parts constructed in multiple, uninterrupted phases -- until all buildings served by the improvement have been connected to it. In addition, the statute of repose does not apply to claims relating solely to manufacturing defects in a product used in the HTHW system.

4-29-15 State v. Kingkamau Nantambu (A-97-13; 073589)

When considering the admissibility of a recording containing a partial omission, the trial court must employ a two-part analysis. First, the trial court must determine if the omission is unduly prejudicial, conducting an objective analysis focused on the evidentiary purposes for which the recording is being offered. If the trial court, in its discretion, finds the omission unduly prejudicial, it must then consider whether it renders all or only some of the recording untrustworthy, and suppress only that portion deemed untrustworthy.

4-28-15 State v. Julie Kuropchak (A-41-13; 072718)

The municipal court's admission of the Alcotest results without the foundational documents required by State v. Chun, 194 N.J. 54 (2009) was error. Further, because the DDQ and DDR contained inadmissible hearsay, which may have unduly influenced the municipal court's credibility findings, the matter is remanded for a new trial.

4-22-15 State v. K.P.S. (A-82-13; 073307)

The decision rendered by the appellate panel in co-defendant's appeal was not the law of the case in defendant's later-heard appeal. Defendant had a due process right under the New Jersey Constitution to have a meaningful opportunity to be heard on his appeal.

3-31-15 Terry Kuchera v. Jersey Shore Family Health Center
(A-60-13; 073483)

The site of plaintiff's fall was part of a nonprofit health care corporation organized exclusively for hospital purposes. Defendants, therefore, are not entitled to absolute immunity, but rather are entitled to the limitation of damages afforded to nonprofit institutions organized exclusively for hospital purposes.

3-30-15 Manuel Guaman, et al. v. Jennifer Velez, Commissioner of New Jersey Department of Human Services, et al.
(A-87-13; 073371)

Judgment of the Appellate Division is affirmed, substantially for the reasons expressed in Judge Reisner's majority opinion reported at 432 N.J. Super. 230 (App. Div. 2013).

3-25-15 L.A. and The Horace Mann Insurance Company v. Board of Education of the City of Trenton, Mercer County
(A-59-13; 073401)

N.J.S.A. 18A:16-6 requires indemnification for fees and costs associated with defending against a civil action unless there is proof by a preponderance of the evidence that the employee's conduct fell outside the course of performance of his or her employment duties.

3-23-15 62-64 Main Street, L.L.C. and 59-61 Moore Street, L.L.C. v. Mayor and Council of the City of Hackensack; Planning Board of the City of Hackensack (A-19/20-13; 072699)

As the Court earlier concluded in Wilson v. City of Long Branch, 27 N.J. 360 (1958), subsections (a), (b), and (d) of N.J.S.A. 40A:12A-5 do not violate the Blighted Areas Clause of the New Jersey Constitution. A determination that an area is blighted and in need of redevelopment does not require a finding that the area "negatively affects surrounding properties," so long as the legislative definitions are met. Substantial evidence in the record supports the Hackensack Planning Board's findings - later adopted by the Mayor and Council - that Lots 4-7 at 62-64 Main Street and Lot 8 at 59-61 Moore Street were part of an area in need of redevelopment.

3-19-15 Bruce Maida v. Michael Kuskin (A-50-13; 073427)

A request for a civil reservation in municipal court must be made in open court and contemporaneously with the court's acceptance of defendant's guilty plea. If the prosecutor or the victim demonstrates good cause,

or the charge to which a defendant pleads guilty does not arise out of the same occurrence that is the subject of the civil proceeding, a civil reservation order may not be entered.

3-18-15 State of New Jersey v. Michael Sumulikowski
State of New Jersey v. Artur Sopel (A-3/4-13; 072957)

Under existing statutory law, a basis for territorial jurisdiction is established when "conduct" that is an element of an offense occurs in New Jersey. In this case, there is no basis for territorial jurisdiction in New Jersey because the elements of the charged crimes that related to defendants' conduct occurred entirely overseas.

3-17-15 State v. David T. Pomianek, Jr. (A-32/33-13; 072293)

Subsection (a)(3) of the bias-intimidation statute, N.J.S.A. 2C:16-1, fails to give adequate notice of conduct that it proscribes, is unconstitutionally vague, and violates the Due Process Clause of the Fourteenth Amendment.

3-12-15 Deborah Townsend v. Noah Pierre (A-2-13; 072357)

Given the uncontradicted testimony that the driver's view was unimpeded by the shrubbery on defendants' property, the trial court properly barred the causation opinion of plaintiffs' expert and granted summary judgment. The opinion on the issue of causation was a net opinion that was directly contradicted by the factual evidence. The opinion with regard to the duty of care owed by the property owner and lessee was properly substantiated and was therefore admissible under N.J.R.E. 702 and 703.

3-10-15 In re Adoption of N.J.A.C. 5:96 and 5:97 by the N.J. Council on Affordable Housing (M-392-14; 067126)

The FHA's exhaustion-of-administrative-remedies requirement is dissolved until further order of the Court. The courts may resume their role as the forum

of first resort for evaluating municipal compliance with Mount Laurel obligations, as provided in this opinion and the Court's corresponding Order. The effective date of the Court's Order is delayed by ninety days to effectuate an orderly transition to the judicial remedies authorized by the Court.

2-18-15 Augustine W. Badiali v. New Jersey Manufacturer's Insurance Group (A-48-12; 071931)

NJM's rejection of the arbitration award in plaintiff's UM action was "fairly debatable," thereby barring plaintiff from recovering counsel fees and other consequential damages under a theory of bad faith.

2-18-15 Kwabena Wadeer v. New Jersey Manufacturers Insurance Company (A-54-12; 072010)

Plaintiff's bad faith claim is barred in this action under the principle of res judicata because it was raised, fairly litigated, and determined by the trial court in the first instance.

2-11-15 Ilda Aguas v. State of New Jersey (A-35-13; 072467)

For claims alleging vicarious liability for supervisory sexual harassment under Restatement § 219(2)(d), the Court adopts as the governing standard the test set forth by the United States Supreme Court in Burlington Industries v. Ellerth, 524 U.S. 742, 765 (1998) and Faragher v. City of Boca Raton, 524 U.S. 775, 807-08 (1998). The employer in a hostile work environment sexual harassment case may assert as an affirmative defense that it "exercised reasonable care to prevent and correct promptly any sexually harassing behavior," and "the plaintiff employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise," provided that the employer has not taken an adverse tangible employment action against the plaintiff employee.

2-3-15 State v. R.K. (A-39-13; 072712)

Admission of the fresh-complaint testimony, bolstering of the victim's credibility, and exclusion of bias testimony constituted reversible error. These errors denied defendant a fair trial.

2-2-15 State v. John Tate (A-46-13; 072754)

The factual basis provided by defendant during the plea colloquy was inadequate to support the guilty plea because it did not satisfy the elements of N.J.S.A. 9:6-1(d).

2-2-15 State v. Tahir S. Gregory (A-40-13; 072715)

Defendant did not provide a factual basis sufficient to sustain his guilty plea because he did not admit to all of the elements of the crime or admit facts from which the court could conclude that all of the elements of the crime had been established.

2-2-15 State v. Richard Perez (A-25-13; 072624)

Defendant's admissions during the colloquy, in combination with the text messages introduced at the plea hearing, set forth a sufficient factual basis to support his guilty plea. However, because CSL and PSL are non-interchangeable, distinct post-sentence supervisory schemes for certain sex offenders, defendant's extended-term sentences were illegal and the matter is remanded to the trial court for resentencing.

1-29-15 Joseph Vanderslice v. Harold Stewart (A-58-13; 073362)

Defendants' demand was not filed out of time. Thus, the Appellate Division's judgment is reversed and the jury's verdict is reinstated. Because the Court finds that defendant's notice was timely, it does not reach the issue of the standard for expanding the thirty-day time limit under Rule 4:21A-6(b)(1).

1-26-15 Morristown Associates v. Grant Oil CompanyMorristown Associates v. Grant Oil Company (A-38-13; 073248)

The general six-year statute of limitations contained in N.J.S.A. 2A:14-1 does not apply to private claims for contribution made pursuant to the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11f(a) (2) (a).

1-22-15 Thomas Griepenburg v. Township of Ocean (A-55-13; 073290)

The challenged Ordinances represent a legitimate exercise of the municipality's power to zone property consistent with its Master Plan and MLUL goals.

1-21-15 In the Matter of Raymond A. Reddin, Judge of the Superior Court (D-123-13; 074439)
In the Matter of Gerald Keegan, Judge of the Municipal Court (D-124-13; 074440)

The Court revises the standard to assess whether a judge's personal behavior creates an appearance of impropriety, and adds an element of objective reasonableness to the test. The Court adopts the following new standard: "Would an individual who observes the judge's personal conduct have a reasonable basis to doubt the judge's integrity and impartiality?" Applying that standard, the Court finds by clear and convincing evidence that respondents violated Canons 1, 2A, and 5A(2) of the Code of Judicial Conduct, but imposes no sanctions in light of the Court's revision of the applicable standard.

1-15-15 State of New Jersey v. James Grate; State of New Jersey v. Fuquan Cromwell (A-47/48-13; 072750)

(1) In order to prove a violation of N.J.S.A. 2C:39-5(e) (1), the State must prove beyond a reasonable doubt both that a defendant knowingly possessed a firearm and that he or she did so while knowingly on the property of an educational institution; (2) because the mandatory minimum sentence under N.J.S.A.

2C:39-5(i) is based on a judicial finding of fact, rather than a finding by the jury, it is unconstitutional under Alleynes; and (3) Grate's sentence was not excessive because the trial court's analysis of the aggravating and mitigating factors was supported by the record.

1-14-15 Sam Hargrove, et al. v. Sleepy's LLC (A-70-12; 072742)

The "ABC" test derived from the New Jersey Unemployment Compensation Act, N.J.S.A. 43:21-19(i)(6), governs whether a plaintiff is an employee or an independent contractor for purposes of resolving a wage-payment or wage-and-hour claim.

1-13-14 State v. T.J.M. (A-76-12; 072419)

The Court finds no prosecutorial or trial court errors, apart from the prosecutor's comment on the presence of certain people in front of whom Chloe testified, which was adequately addressed by the trial court's appropriate and curing instruction. The points raised by the dissent and defendant have been considered by virtue of this appeal of right, and the Court holds that they do not merit disrupting the jury's verdict.

1-8-15 State v. K.S. (A-36-13; 072608)

Because the record includes no admissions of conduct to support the truth of the allegations in defendant's dismissed adult charges and diverted and dismissed juvenile charges, those charges were not appropriate factors to be considered in deciding whether to admit defendant into PTI. Therefore, the judgment of the Appellate Division is reversed and the matter is remanded to the prosecutor for reconsideration of defendant's eligibility for PTI.

12-23-14 Tomikia Davis v. Abbas Husain, M.D. (A-34-13; 072425)

Post-verdict discussions between the court and discharged jurors are prohibited unless those

discussions are part of a hearing ordered on good cause shown pursuant to Rule 1:16-1.

12-22-14 New Jersey Division of Child Protection and Permanency v. Y.N. (A-24-13; 072804)

Absent exceptional circumstances, a finding of abuse or neglect cannot be sustained based solely on a newborn's enduring methadone withdrawal following a mother's timely participation in a bona fide treatment program prescribed by a licensed healthcare professional to whom she has made full disclosure.

12-18-14 In the Matter of Scott P. Sigman, An Attorney at Law (D-126-13; 074489)

Respondent's unethical conduct, consisting of repeatedly breaching the trust that must exist between a law firm and the professionals whom it employs, warrants the imposition of a prospective thirty-month suspension of his license to practice law, as reciprocal discipline under Rule 1:20-14.

12-17-14 State v. James J. Revie (A-31-13; 072600)

The N.J.S.A. 39:4-50(a)(3) "step-down" provision can benefit a DWI offender more than once, provided that the defendant's most recent and current DWI offenses are separated by more than ten years. In this case, defendant should be sentenced as a second DWI offender with respect to any term of incarceration imposed, and as a third DWI offender with respect to the applicable administrative penalties.

12-15-14 State v. Joseph M. Jaffe (A-12-13; 072259)

Because a sentencing analysis is a fact-sensitive inquiry, which must be based on consideration of all the competent and credible evidence raised by the parties at sentencing, the trial court must consider evidence of a defendant's post-offense conduct. This matter is remanded for resentencing to ensure

consideration of all of the facts relevant to the applicable aggravating and mitigating factors.

12-4-14 United Parcel Service General Services Company v. Director, Division of Taxation (A-16/17-13; 072421)

The judgment of the Appellate Division is affirmed substantially for the reasons expressed in Judge Lihotz's opinion.

12-3-14 Robert Dublirer v. 2000 Linwood Avenue Owners, Inc., et al. (A-125-11; 069154)

The Board of Directors' House Rule violates the free speech guarantee in New Jersey's Constitution. The important right of residents to speak about governance of their community, which presents a minimal intrusion when a leaflet is placed under a neighbor's apartment door, outweighs the Board's concerns.

12-2-14 State v. William A. Case, Jr. (A-45-13; 072688)

The sentencing proceeding in this case was flawed for several reasons, including the trial court's finding of a critical aggravating factor that was not based on credible evidence in the record. The trial court also failed to articulate clearly how the aggravating and mitigating factors were balanced to arrive at the sentence.

10-29-14 State v. Bruce E. Lige (A-15-13; 072327)

The judgment of the Appellate Division is affirmed substantially for the reasons expressed in Judge Ashrafi's opinion below.

10-23-14 In the Matter of Neil M. Cohen, an Attorney at Law (D-50-13; 073728)

Respondent's guilty plea to second-degree endangering the welfare of a child, based on the discovery of sexually explicit pornographic images of children on a

state-issued desktop computer - used by him while serving as Assemblyman - and on his private law office computer, warrants an indeterminate period of suspension, pursuant to Rule 1:20-15A(a)(2). Respondent may not seek reinstatement for five years from January 13, 2011, the date of his temporary suspension.

10-6-14 State v. Naquan O'Neil, a/k/a Naquan O'Neal (A-68-12; 072072)

Defendant's appellate counsel's failure to bring the Rodriguez decisions to the attention of the Appellate Division panel that heard this case rendered counsel's performance ineffective under both our Federal and State Constitutions.

9-30-14 ADS Associates Group, Inc. v. Oritani Savings Bank (A-114-11; 069987)

Allen may not assert a UCC Article 4A claim against Oritani because he is not a bank "customer" under the statute. Allen also may not assert a common law negligence claim against Oritani because such a claim would contravene the objectives of Article 4A. Even if Article 4A did not bar Allen's negligence claim, no "special relationship" existed to create a duty of care between Oritani and Allen under City Check Cashing, 166 N.J. 49.

9-30-14 State v. Diana M. Palma (A-41-12; 071228)

The factors outlined by this Court in State v. Moran, 202 N.J. 311 (2010), should be followed by judges in the municipal court and Law Division when imposing sentences for careless driving.

9-29-14 Janet Henebema v. South Jersey Transportation Authority (A-7-13; 072545)

The individual defendants' liability and plaintiff's comparative negligence are not intertwined with the issues to be determined on remand and therefore do not need to be considered by the jury at the retrial. The

purpose of the retrial is to have the jury determine, from the evidence, whether the public entities' employees were performing either ministerial or discretionary actions. Once the appropriate standard is identified, the jury can determine, based upon the applicable standard, whether the public-entity defendants are liable.

9-29-14 C.A. v. Eric Bentolila, M.D. (a-32-12; 071702)

The Hospital's evaluative process in this case conformed to the Patient Safety Act's requirements. The memorandum at issue is privileged, not subject to discovery, and should not be used for any purpose in this case.

9-25-14 State v. Cesar A. Lipa (A-31-12; 071011)

In the face of a general denial and specific, potentially plausible facts negating guilt, defendant's argument that the trial court misapplied the standard for deciding a pre-sentence motion to withdraw a guilty plea has merit. Balancing the evidence and arguments in this case against all of the Slater factors, defendant is entitled to withdraw his guilty plea in the interest of justice.

9-25-14 Beverly Maeker v. William S. Ross (A-1-13; 072185)

The 2010 Amendment to the Statute of Frauds, N.J.S.A. 25:1-5(h), does not render oral palimony agreements that predate it unenforceable because the Legislature did not intend the Amendment to apply retroactively.

9-24-14 State of New Jersey in the Interest of A.B. (A-74-12; 072873)

The family court did not abuse its discretion by permitting the defendant and his attorney to inspect and photograph specified areas of the alleged victim's home. Where, as here, the defense has made a legitimate request to inspect a crime scene that is an alleged victim's home and has articulated a reasonable

basis to believe the inspection will lead to relevant evidence on a material issue, then, subject to appropriate time, place, and manner restrictions intended to protect the privacy interests of the alleged victim and her family, the discovery should be granted.

9-23-14 State v. Terry C. Jones (A-19-12; 070733)

Viewing the facts in the light most favorable to him, defendant presented a close but credible prima facie case of ineffective assistance, entitling him to an evidentiary hearing under Rule 3:22-10(b).

9-23-14 Patricia Atalese v. U.S. Legal Services Group, L.P.
(A-64-12; 072314)

An arbitration provision - like any comparable contractual provision that provides for the surrendering of a constitutional or statutory right - must clearly and unambiguously notify the consumer that he or she is waiving the right to seek relief in a court of law. The arbitration agreement in this case is unenforceable because it failed to notify plaintiff that, by entering into the agreement, she was surrendering her right to seek relief in a judicial forum.

9-22-14 George C. Riley v. New Jersey State Parole Board
(A-94-11; 069327)

The retroactive application of the 2007 Sex Offender Monitoring Act to George Riley twenty-three years after he committed the sexual offense at issue and after he fully completed his criminal sentence violates the Ex Post Facto Clauses of the United States and New Jersey Constitution.

9-18-14 State v. Kirby Lenihan (A-45-12; 071497)

Under the circumstances presented in this case, a violation of the Seat Belt Law, clearly "intended to protect the public health and safety," is a predicate

offense that can support a conviction under N.J.S.A. 2C:40-18b.

9-17-14 In the Matter of Peter J. Cammarano, III, an Attorney at Law (D-46-13; 073714)

Respondent's unethical conduct, consisting of offering favored treatment to a private developer in exchange for money, betrays a solemn public trust and undermines public confidence in honest government, thereby warranting his disbarment.

9-16-14 State v. Bruno Gibson (A-11-13; 072257)

Due to the fundamental differences between a pre-trial motion to suppress and a trial on the merits, the best practice is to conduct two separate proceedings. However, the motion record may be incorporated into the trial record if both parties consent and counsel are given wide latitude in cross-examination. Where the evidence from a pre-trial hearing is improperly admitted at the trial on the merits, the correct remedy is remand for a new trial

9-15-14 Wayne Davis v. Brickman Landscaping, Ltd. (A-22/23/24-12; 071310)

Plaintiffs were required to establish the applicable standard of care through expert testimony. The standard of care set forth by plaintiffs' expert constituted an inadmissible net opinion because it lacked objective support. Summary judgment in defendants' favor was appropriate because, as a result of plaintiffs' failure to support their asserted standard of care, they were unable to establish the required elements of their negligence claim.

9-15-14 State v. Daryel Rawls (A-18-13; 072388)

A defendant who is released on bail on one indictment, but subsequently incarcerated on a later indictment, is entitled to receive jail credit against the former

indictment under Rule 3:21-8 and State v. Hernandez, 208 N.J. 24 (2011).

9-11-14 Thomas Saccone v. Board of Trustees of the Police and Firemen's Retirement System (A-49-12; 071841)

The disabled child of a retired member of the PFRS may have his or her survivors' benefits paid into a first-party SNT created for him or her under 42 U.S.C.A. § 1396p(d)(4)(A).

9-10-14 Stephanie Washington v. Carlos A. Perez (A-10-13; 072522)

Given the significant distinctions between fact and expert witnesses, and the array of reasons why a party may choose not to call a previously designated expert witness to testify, an adverse inference charge should rarely be invoked to address the absence of an expert.

9-9-14 Tahir Zaman v. Barbara Felton (A-60-12; 072128)

The Court affirms the jury's determination that Felton knowingly sold her property to Zaman. It reverses the portion of the Appellate Division's opinion that affirmed the trial court's dismissal of Felton's claim that the parties' agreements gave rise to an equitable mortgage. The Court remands to the trial court for application of the eight-factor standard for the determination of an equitable mortgage set forth by the United States Bankruptcy Court in O'Brien v. Cleveland, 423 B.R. 477, 491 (Bankr. D.N.J. 2010) and, in the event that the trial court concludes that an equitable mortgage was created by the parties, for the adjudication of two of Felton's statutory claims based on alleged violations of consumer lending laws, as well as several other claims not adjudicated by the trial court. The Court concurs with the trial court and Appellate Division that Felton has no claim under the Consumer Fraud Act, that this case does not implicate In re Opinion No. 26, and that Felton's remaining claims were properly dismissed.

9-9-14 Robert Lavezzi v. State of N.J. (A-29-13; 072856)

Pursuant to the Wright standard, the State is obligated to defend and indemnify the Prosecutor's Office employees at this early stage of the litigation because, based on the limited record before the Court, this case arises from the performance of their law enforcement duties.

9-8-14 State v. Jahnell Weaver (A-104-11; 069185)

The confluence of defendant's third-party defense strategy, the erroneous denial of his defensive use of co-defendant's subsequent acts with the murder weapon, the denial of his motion to sever the trial, the admission of an inadequately redacted statement, and the erroneous admission of when co-defendant received the murder weapon require a new trial. The cumulative impact of these errors was not harmless.