

DATE **NAME OF CASE (DOCKET NUMBER)**

8-18-21 State v. Wilbert Hannah (A-74/75-19; 084052)

Based on the record, Hannah has established that his counsel rendered constitutionally deficient representation and that, but for counsels' errors, there is a reasonable probability that the outcome of the trial would have been different. The Court reverses the judgment of the Appellate Division denying Hannah post-conviction relief, vacates his judgment of conviction, and remands for a new trial.

8-16-21 State v. Wildemar A. Dangcil (A-56-20; 085665)

*The pre-voir dire disqualification, excusal, or deferral of jurors is not a stage at which defendant is entitled to be present or be represented, and defendant has failed to support his representative-cross-section claim.

8-12-21 Shelley Pritchett v. State of New Jersey (A-5-20; 084451)

As the Appellate Division instructed, the trial court on remand must (1) substantially consider the factors advanced in BMW and incorporated into New Jersey law by Baker and (2) must "ensure that the measure of punishment is both reasonable and proportionate to the amount of harm to the plaintiff and to the general damages recovered," in keeping with the guidance in State Farm Mutual Automobile Insurance Co. v. Campbell, 538 U.S. 408, 425-26 (2003). The Court modifies the Appellate Division's instructions to add that the trial court -- and all trial courts reviewing a punitive damages award issued by a jury against a public entity defendant -- must also apply the heightened scrutiny called for in Lockley and underscored in the companion case of Green v. Jersey City Board of Education, 177 N.J. 434 (2003).

8-11-21 State v. Bennie Anderson (A-15/16-20; 084365)

The forfeiture of defendant's pension under N.J.S.A. 43:1-3.1 does not constitute a fine for purposes of an excessive-fine analysis under the Federal or State Constitutions. Because the forfeiture is not a fine, the Court does not reach the constitutional analysis for excessiveness.

8-10-21 State v. Rasheem W. McQueen and Myshira T. Allen-Brewer (A-11-20; 084564)

The right of privacy, and particularly privacy in one's telephone conversations, is among the most valued of all rights in a civilized society. McQueen's custodial status in the stationhouse did not strip him of all constitutional protections. Article I, Paragraph 7 broadly protects the privacy of telephone conversations in many different settings. McQueen and Allen-Brewer had a reasonable expectation of privacy in their conversation in the absence of fair notice that their conversation would be monitored or recorded. The recorded stationhouse telephone conversation was not seized pursuant to a warrant or any justifiable exigency and therefore must be suppressed.

8-9-21 In the Matter of Registrant J.D.-F. (A-24-20; 084397)

The relevant date for purposes of determining whether subsection (g) is effective as to a particular registrant is the date on which that registrant committed the sex offenses that would otherwise bar termination of registration under subsection (f). Thus, subsection (g) does not apply to registrant.

8-5-21 Bonay Goldhagen v. Susan Pasmowitz (A-17-20; 084668)

The Dog Bite Statute's strict liability standard applies to the claim of an independent contractor who agrees to care for a dog. The statute's plain language reveals no legislative intent to recognize an exception to strict liability under the Dog Bite Statute for any category of injured plaintiffs. See N.J.S.A. 4:19-16. However, the Comparative Negligence Act, N.J.S.A. 2A:15-5.1 to -5.8, applies to plaintiff's strict liability claim, and plaintiff's status as a professional experienced in the care of dogs is relevant to an allocation of fault. Genuine issues of material fact warrant the denial of plaintiff's motion for partial summary judgment on her common-law claims.

8-4-21 Estate of Hiram A. Gonzalez v. The City of Jersey City (A-19-20; 084381)

The immunities from liability provided by the Good Samaritan Act, N.J.S.A. 26:2B-16, and most TCA provisions invoked by defendants do not apply here. Defendants' actions may be entitled to qualified immunity under certain TCA provisions on which defendants rely, however, if the involved officers' actions were discretionary, rather than ministerial, in nature. In this instance, because of a factual dispute, that determination is for the jury to make upon remand.

8-3-21 State v. Paulino Njango (A-79-19; 084286)

The mandatory period of parole supervision imposed under NERA is part of a unitary sentence that is penal in nature. The State has kept Njango in prison for more than a year beyond his release date. Without credit for the excess prison time, Njango would serve more time in the custody of the Department of Corrections than authorized by his sentence. Under the fundamental fairness doctrine -- an integral part of the due process guarantee of the New Jersey Constitution -- the excess time Njango erroneously served in prison must be credited to reduce the period of his parole supervision.

8-2-21 State v. Darius J. Carter (A-66-19; 083221)

*To avoid serious constitutional concerns, the Court interprets the statute narrowly and holds that N.J.S.A. 39:3-33 requires that all markings on a license plate be legible or identifiable. If a frame conceals or obscures a marking in a way that it cannot reasonably be identified or discerned, the driver would be in violation of the law. In practice, if a registration letter or number is not legible, the statute would apply; but if a phrase like "Garden State" is partly covered but still recognizable, there would be no violation.

8-2-21 State v. Miguel A. Roman-Rosado (A-67-19; 084074)

*To avoid serious constitutional concerns, the Court interprets the statute narrowly and holds that N.J.S.A. 39:3-33 requires that all markings on a license plate be legible or identifiable. If a frame conceals or obscures a marking in a way that it cannot reasonably be identified or discerned, the driver would be in violation of the law. In practice, if a registration letter or number is not legible, the statute would apply; but if a phrase like "Garden State" is partly covered but still recognizable, there would be no violation.

7-22-21 State v. Damian Sanchez (A-60-19; 084104)

Annese's lay opinion testimony is rationally based on the witness's perception and therefore satisfies the first prong of N.J.R.E. 701. Based on Annese's extensive contacts with defendant, the absence of any other identification testimony, and the quality of the surveillance photograph, the testimony meets the second requirement of N.J.R.E. 701 because it will assist the jury in determining a fact at issue in defendant's trial. Sanitized to avoid disclosure of defendant's status as a parolee at the time of his alleged offense, Annese's lay opinion testimony will not be so prejudicial that its probative value is substantially outweighed by the risk of undue prejudice, and that testimony should not be excluded under N.J.R.E. 403. The Court concurs with the Appellate Division that the trial court abused its discretion when it barred Annese's lay opinion testimony.

7-21-21 Brenda Gilbert v. Kenyatta K. Stewart, Esq. (A-32-20; 084860)

There are facts that support plaintiff's claim that, had defendant not breached his duty by advising her to accept a guilty plea for offenses she did not commit, there would have been (1) no conviction to report, which would mean (2) no failure to report the conviction, which would mean (3) no inquiry leading to the discovery of prior failures to report, which, in turn, would mean (4) no imposition of disciplinary charges or the other adverse consequences plaintiff asserts as damages. Under the circumstances presented here, a reasonable jury could find that defendant's breach of his professional duty was a substantial factor in -- and thus a proximate cause of -- plaintiff's harm.

7-19-21 H.C. Equities, LP v. County of Union (A-1/2-20; 084556)

A finding of substantial compliance with the Tort Claims Act cannot be premised on comments made by plaintiff's counsel in three different letters sent to lawyers representing the defendant public entities. H.C. Equities' letters, individually or collectively, did not communicate the core information that a claimant must provide to a public entity in advance of filing a tort claim. See N.J.S.A. 59:8-4. H.C. Equities did not comply with the notice of claim provisions of the Tort Claims Act or file a timely motion to submit a late claim, and the trial court was correct when it granted the motion of the Authority to dismiss H.C. Equities' claims against it, and the motion of the County to dismiss H.C. Equities' tort claims.

7-15-21 Leah Coleman v. Sonia Martinez (A-3-20; 084489)

The Court agrees with the Appellate Division that Martinez had a duty to Coleman under the circumstances presented here.

7-13-21 State v. Edwin Andujar (A-6-20; 084167)

*Courts, not the parties, oversee the jury selection process. On occasion, it may be appropriate to conduct a criminal history check to confirm whether a prospective juror is eligible to serve and to ensure a fair trial. That decision, though, cannot be made unilaterally by the prosecution. Going forward, any party seeking to run a criminal history check on a prospective juror -- through a government database available only to one side -- must present a reasonable, individualized, good-faith basis for the request and obtain permission from the trial judge. The results of the check must be shared with both parties and the court, and the juror should be given an opportunity to respond to any legitimate concerns raised.

7-12-21 State v. David Chavies (A-25-20; 084999)

NERA mandates that a defendant serve 85% of the sentence "actually imposed" for certain crimes before becoming eligible for parole. N.J.S.A. 2C:43-7.2(b). Allowing defendants to proceed with a Rule 3:21-10(b)(2) motion prior to serving that 85% would circumvent the Legislature's objectives and its approach to violent crimes. Moreover, the timing of defendant's motion aside, he failed to meet his burden under Priester since he cannot prove the necessary devastating effect that incarceration had on his health, in addition to various other Priester factors.

7-8-21 Borough of Carteret v. Firefighters Mutual Benevolent Association, Local 67 (A-10-20; 084709)

The arbitrator's award is supported by a reasonably debatable interpretation of the disputed provision, and therefore, the award should have been upheld on appeal.

6-28-21 Winberry Realty Partnership v. Borough of Rutherford (A-22/53-19; 083156)

The Court affirms the decision to deny the Tax Collector qualified immunity. Based on the summary judgment record, the Tax Collector's refusal to provide the redemption amount to plaintiffs because the request was not in writing or timely made was not objectively reasonable. The Court disagrees, however, that plaintiffs have not established the basis for municipal liability. The Tax Collector is the final policymaker on matters related to the redemption of tax sale certificates in the Borough. The Borough is liable if the Tax Collector violated the constitutional or statutory rights of plaintiffs.

6-24-21 J.K. v. New Jersey State Parole Board (A-76-19; 084035)

The denial of J.K.'s application was not arbitrary, capricious, or unreasonable. J.K.'s submissions to the Parole Board were inadequate to secure the relief sought. To the extent that J.K. has refined and updated his application, his recourse is before the Parole Board, which has the necessary expertise to assess the quality of his new submissions under its Policy # 09.821.

6-23-21 State v. Craig Szemple (A-70-19; 084182)

Because defendant was aware of the letter and the circumstances relevant to this appeal for nearly twenty-five years, yet provides no evidence -- and made almost no effort to uncover evidence -- that police interviewed Theresa after production of the letter, the trial court did not abuse its discretion in denying defendant's post-conviction discovery request.

6-22-21 In re Renewal Application of TEAM Academy Charter School (A-45-19; 083014)

If a charter school's "district of residence demonstrates with some specificity that the constitutional requirements of a thorough and efficient education would be jeopardized" by the diversion of district funding to a charter school, the Commissioner must "evaluate carefully" the question of fiscal harm. In re Englewood on the Palisades Charter Sch. (Englewood), 164 N.J. 316, 334-35 (2000). Here, however, the District made no such preliminary showing. The Court declines to depart from the governing standard simply because the District is a former Abbott district or because the District was State-operated at the time of the charter school applications.

6-17-21 Baffi Simmons v. Wendy Mercado (A-18-20; 084695)

Because MPD officers create the information contained in the CDR-1s, the CDR-1s fall well within OPRA's definition of a government record. Further, AADARI's records request is narrowly tailored and would not constitute research beyond OPRA's scope.

6-16-21 Armando Rios, Jr. v. Meda Pharmaceutical, Inc. (A-23-20; 084746)

At a motion for summary judgment, courts view the evidence in a light most favorable to the non-moving party -- in this case, Rios. And the Court considers the remarks from the perspective of a reasonable Hispanic employee in Rios's position. Under all the circumstances, a rational jury could conclude the demeaning and contemptuous slurs, allegedly uttered by a direct supervisor, were sufficiently severe or pervasive to create a hostile work environment in violation of the LAD.

6-15-21 State v. Zakariyya Ahmad (A-54-19; 083736)

Pursuant to the facts of this case, a reasonable 17-year-old in defendant's position would have believed he was in custody and not free to leave, so Miranda warnings were required. It was harmful error to admit his statement at trial.

6-10-21 Angel Alberto Pareja v. Princeton International Properties (A-4-20; 084394)

The limiting principles established in the Court's precedent warrant the adoption of the ongoing storm rule. Commercial landowners do not have a duty to remove the accumulation of snow and ice until the conclusion of the storm, but unusual circumstances may give rise to a duty before then. There are two exceptions that could impose a duty: if the owner's conduct increases the risk, or the danger is pre-existing.

6-7-21 In re Attorney General Law Enforcement Directive Nos. 2020-05 and 2020-06
(A-26/27/28/29/30-20; 085017)

*The Attorney General had the authority to issue the Directives, which satisfy the deferential standard of review for final agency decisions. The Directives are designed to enhance public trust and confidence in law enforcement, to deter misconduct, to improve transparency and accountability in the disciplinary process, and to identify repeat offenders who may try to move from one sensitive position to another. In short, the Directives are consistent with legislative policies and rest on a reasonable basis.

5-27-21 State v. Leo T. Little, Jr. (A-80-19; 084115)

Trial courts may conduct voir dire questioning about a prospective juror's views on disputed issues to determine whether the juror will follow the court's instructions and deliberate with an open mind. The trial court must ensure, however, that such questioning is not partisan and that it will not indoctrinate prospective jurors in favor of either side's position. The court must present the issue to prospective jurors in balanced and impartial terms. In this case, the questioning addressed only the component of the legal standard that assisted the State; it did not equitably present the evidentiary issue to the prospective jurors. The responses of some of the prospective jurors indicate that the inquiry may have confused them. The form of the questioning strongly favored the State's position and may have encouraged jurors to convict defendant. Accordingly, defendant was not afforded his right to an impartial jury and is entitled to a new trial.

5-12-21 Kim Allen v. Cape May County (A-49-19; 083295)

Because it is unclear whether defendants' motion for summary judgment was decided based on the CEPA provision on which plaintiff relies, the Court remands plaintiff's claim regarding the Capehart & Scatchard proposal to the trial court. As a matter of law, plaintiff presented no prima facie evidence of a causal nexus between her comments on the retention of Ballard Spahr and the County's decision not to renew her contract. The Court reinstates the order granting summary judgment as to that claim.

5-11-21 State v. Edgar Torres (A-52-19; 083676)

An explicit statement, explaining the overall fairness of a sentence imposed for multiple offenses in a single proceeding or in multiple sentencing proceedings, is essential to a proper Yarbough sentencing assessment and was lacking here. The lack of any overall assessment of the fairness of the decision to impose consecutive sentences compels reversal of defendant's sentence and remand for a new resentencing, and the Court provides important guidance regarding that essential assessment.

5-10-21 State v. Kanem Williamson (A-65-19; 083979)

The trial court correctly admitted A.B.'s statement identifying defendant as her shooter as a dying declaration under N.J.R.E. 804(b)(2), and the admission of A.B.'s statement as a dying declaration does not violate the Confrontation Clause of the Sixth Amendment to the United States Constitution or Article I, Paragraph 10 of the New Jersey Constitution.

5-5-21 Ellen Baskin v. P.C. Richard & Son, LLC (A-77-19; 084257)

Plaintiffs sufficiently pled the class certification requirements to survive a motion to dismiss. The Court remands the matter for class action discovery to be conducted pursuant to Rule 4:32-2(a) so that the trial court may determine whether to certify the class.

4-28-21 State v. Omar Vega-Larregui (A-33-20; 085288)

The Court has the constitutional authority to make rules and procedures for all courts of this state, including the grand jury; the Court's authorization of a virtual format for the selection of grand jurors and grand jury presentations during a lethal pandemic does not violate the State Constitution's separation of powers. There is no support for the facial constitutional challenge to the temporary use of the virtual grand jury during the current public health crisis, and virtual grand jury proceedings do not facially violate the fundamental fairness doctrine. In individual cases where a defendant claims that an alleged error or defect undermined the fairness of the proceeding, a challenge may be mounted. But in this case, no error undermined the integrity of the grand jury proceeding; nor is there a basis for the dismissal of the indictment.

4-21-21 Tyrone A. Huggins v. Mary E. Aquilar (A-78-19; 084200)

The disputed coverage provision in the garage policy at issue constitutes an illegal escape clause, which may not be used to evade the minimum liability requirements for dealership vehicles set by the Chief Administrator of the Motor Vehicle Commission (MVC). The Court orders the reformation of Federal's policy to the \$100,000/\$250,000 dealer-licensure minimum liability coverage required by N.J.A.C. 13:21-15.2(l).

4-14-21 State v. Raquel Ramirez; State v. Jorge Orozco (A-59-19; 083902)

The Court affirms as to defendants' respective manslaughter convictions but reverses as to their convictions for endangerment.

4-13-21

Vincent Hager v. M&K Construction (A-64-19; 084045)

M&K does not fit within the Compassionate Use Act's limited reimbursement exception, and Hager presented sufficient credible evidence to the compensation court to establish that the prescribed medical marijuana represents, as to him, reasonable and necessary treatment under the WCA. Finally, the Court interprets Congress's appropriations actions of recent years as suspending application of the CSA to conduct that complies with the Compassionate Use Act. As applied to the Order, the Court thus finds that the Act is not preempted and that M&K does not face a credible threat of federal criminal aiding-and-abetting or conspiracy liability. M&K is ordered to reimburse costs for, and reasonably related to, Hager's prescribed medical marijuana.

3-30-21

State v. Juan C. Molchor; State v. Jose A. Rios (A-9-20; 084694)

The CJRA favors pretrial release over detention; it authorizes judges to detain defendants when the State has shown, by clear and convincing evidence, that no conditions of release would reasonably assure the eligible defendant's appearance in court when required, would protect the public, or would prevent the defendant from obstructing the criminal justice process. To make that determination, the Act directs judges to conduct an individualized assessment of the level of risk each defendant presents in light of their own conduct, history, and characteristics. The Act does not seek to detain defendants whose behavior poses a minimal level of risk, which describes all three defendants here. Nor does the CJRA cede control over pretrial release decisions to outside agencies. The statute's primary focus is on a defendant's behavior and choices, and the risk they present. The language, structure, purpose, and history of the CJRA reveal the Act was designed to address a defendant's own choice not to appear in court, not independent actions by third parties like ICE. The Court agrees with the Appellate Division that the CJRA does not authorize judges to detain defendants to thwart their possible removal by ICE.

3-30-21

State v. Oscar Lopez-Carrera (A-8-20; 084750)

The CJRA favors pretrial release over detention; it authorizes judges to detain defendants when the State has shown, by clear and convincing evidence, that no conditions of release would reasonably assure the eligible defendant's appearance in court when required, would protect the public, or would prevent the defendant from obstructing the criminal justice process. To make that determination, the Act directs judges to conduct an individualized assessment of the level of risk each defendant presents in light of their own conduct, history, and characteristics. The Act does not seek to detain defendants whose behavior poses a minimal level of risk, which describes all three defendants here. Nor does the CJRA cede control over pretrial release decisions to outside agencies. The statute's primary focus is on a defendant's behavior and choices, and the risk they present. The language, structure, purpose, and history of the CJRA reveal the Act was designed to address a defendant's own choice not to appear in court, not independent actions by third parties like ICE. The Court agrees with the Appellate Division that the CJRA does not authorize judges to detain defendants to thwart their possible removal by ICE.

3-23-21

State v. Luis A. Maisonet (A-28-19; 083066)

The Court affirms settled principles of law that require trial judges to conduct a "reasoned, thoughtful analysis" of certain factors when they consider a request for an adjournment to hire new counsel. See *State v. Kates*, 216 N.J. 393, 396-97 (2014); *State v. Ferguson*, 198 N.J. Super. 395, 402 (App. Div. 1985). If a trial judge does not conduct the proper analysis, it may be necessary to reverse a conviction. But defendants are not automatically entitled to a new trial. When a reviewing court can glean or infer the relevant considerations from the record, it may evaluate the appropriate factors. The Court does not find an actual deprivation of the right to counsel of choice here, so the doctrine of structural error does not apply.

3-22-21

State v. Andrea K. Dunbrack; State v. Gabriel Rodriguez (A-27-19; 083008)

The Court finds no error, let alone plain error, in the trial court's omission of a theft charge. Nothing in Dunbrack's version of the events "jumps off the page" as indicative of theft. Neither Dunbrack nor Rodriguez requested an instruction on theft, and the trial court was not required to scour the record for a combination of facts to justify giving such a lesser included jury charge.

3-17-21

Clarence Haley v. Board of Review (A-71-19; 084123)

Pretrial detention is not an absolute bar to receiving unemployment compensation benefits for the time following dismissal of the charges and release from detention. Based on the specific facts presented by this appeal, the UCL and N.J.A.C. 12:17-9.1(e)(10) required the Department to review the totality of the circumstances surrounding Haley's detention and release to determine whether he "left work voluntarily." That review did not occur here.

3-16-21 State v. Thomas H. Outland (A-38-19; 083242)

Because the trial court quizzed defendant on his knowledge of substantive law rather than provide the information required by New Jersey case law to confirm he was making a knowing and voluntary waiver of counsel, the denial of defendant's request to represent himself was an abuse of discretion.

3-11-21 In the Matter of the Civil Commitment of W.W., SVP-86-00 (A-63-19; 083890)

The plain language of N.J.S.A. 30:4-27.30(b) requires the State to produce psychiatric testimony in support of commitment when the State seeks the initial or continued commitment of a sexually violent predator. The State therefore did not meet its burden in this case by producing a psychiatrist who did not support commitment.

3-10-21 State v. Gabriel Garcia (A-47-19; 083568)

The trial court erroneously kept admissible evidence from the jury. The video rebutted what the prosecutor implied during cross-examination -- that defendant's witnesses lied about their attempt to speak with the police at the scene. That video also contradicted the investigating detective's testimony that she had thoroughly canvassed the area for witnesses. In summation, the prosecutor exploited the suppression of the video to present a false narrative and improperly suggested to the jury that the defense witnesses made no effort to give their accounts to the officers at the scene. The combination of the trial court's erroneous evidentiary ruling and the prosecutor's inappropriate remarks during summation had the clear capacity to cause an unjust result.

3-9-21 Kathleen J. Delanoy v. Township of Ocean (A-68-19; 084022)

The Court agrees that the PWFA recognizes for pregnant and breastfeeding employees three distinct causes of action within N.J.S.A. 10:5-12(s): 1) unequal or unfavorable treatment; 2) failure to accommodate; and 3) unlawful penalization. The Court explains the contours of those causes of action and the necessary considerations as to each upon remand.

2-18-21 Jed Goldfarb v. David Solimine (A-24-19; 083256)

The Securities Law does not bar plaintiff's promissory estoppel claim for reliance damages. The Court affirms the liability judgment on that claim and the remand for a new damages trial in which plaintiff will have the opportunity to prove reliance damages. He is not entitled to benefit-of-the-bargain damages. To the extent that the Appellate Division relied on an alternative basis for its liability holding -- that a later-adopted federal law "family office" exception has been incorporated into our Securities Law -- the Court rejects that reasoning and voids that portion of the court's analysis.

2-17-21 Anasia Maison v. NJ Transit Corporation and Kelvin Coats (A-34/35-19; 083484)

NJ Transit and its bus drivers are held to the same negligence standard under the TCA as other common carriers -- to exercise the utmost caution to protect their passengers as would a very careful and prudent person under similar circumstances. See N.J.S.A. 59:2-2(a), :3-1(a). None of the TCA immunities defendants asserted abrogated their common-carrier duty to protect Maison from the dangerous and threatening conduct of the teenage passengers. The TCA leaves no doubt that an allocation of fault between a negligent public entity and its employee and an intentional tortfeasor is mandated. See N.J.S.A. 59:9-3.1. Nevertheless, to ensure that defendants' duty to protect their passenger is not unfairly diluted or diminished, the trial court must give the jury clear guidance on the factors to consider in allocating degrees of fault. See *Frugis v. Bracigliano*, 177 N.J. 250, 274-75, 281-83 (2003).

2-11-21 In the Matter of the Request to Release Certain Pretrial Detainees (M-550-20; 085186)

*Section 19(f) of the CJRA offers a path for potential relief under the present circumstances. Under that provision, N.J.S.A. 2A:162-19(f), individual defendants can apply to reopen detention hearings if they can present information that was not known at the time of the initial hearing and that "has a material bearing" on the release decision.

2-9-21 State v. Herby V. Desir (A-43-19; 083584)

A defendant seeking discovery in connection with a Franks hearing may -- in the trial court's discretion and on showing a plausible justification that casts reasonable doubt on the veracity of the affidavit -- be entitled to limited discovery described with particularity that is material to the determination of probable cause. The Court affirms and modifies the Appellate Division's judgment and remands to the trial court for consideration under the standard adopted in this decision.

2-8-21 Kim Goulding v. NJ Friendship House, Inc. (A-48-19; 083726)

The injury sustained by Kim Goulding while volunteering at her employer-sponsored event is compensable because, as to Goulding, the event was not a social or recreational activity. Even if N.J.S.A. 34:15-7 was applicable here, Goulding would still have satisfied the two-part exception set forth in that statute. Her role at the event, which was planned to be held annually, was the same as her role as an employee, and but for her employment at Friendship House, Goulding would not have been asked to volunteer and would not have been injured. Thus, Goulding's injury was "a regular incident of employment." See *ibid*. Additionally, Friendship House received a benefit from Family Fun Day "beyond improvement in employee health and morale." See *ibid*. The event was not a closed event for the Friendship House team. Rather, it was an outreach event to celebrate and benefit Friendship House's clients, creating goodwill in the community.

2-4-21 The Bank of New York Mellon v. Marianne Corradetti (A-81-19; 084029)

The judgment of the Appellate Division is reversed substantially for the reasons expressed in Judge Accurso's dissenting opinion. The Court remands for a retrial

2-3-21 Moshe Rozenblit v. Marcia V. Lyles (A-41/42-19; 083434)

The Board's payment of salaries and benefits to the releasees did not exceed its statutory grant of authority. The Board's agreement to the CNA's release time provisions is authorized by the plain language of N.J.S.A. 18A:30-7, construed in conjunction with two related provisions of the Education Code, N.J.S.A. 18A:27-4 and N.J.S.A. 18A:11-1(c), and with a core provision of the Employer-Employee Relations Act (EERA), N.J.S.A. 34:13A-2. Further, the release time serves a public purpose and is so consonant with the accomplishment of that purpose that it does not offend the State Constitution

1-27-21 New Jersey Transit Corporation v. Certain Underwriters at Lloyd's London (A-72/73-19; 083801)

The Court affirms the judgment of the Appellate Division substantially for the reasons expressed in Judge Yannotti's thoughtful opinion. The Court relies principally on the Appellate Division's analysis of the plain language of the relevant insurance policies. 461 N.J. Super. at 454-57. The Court does not rely on the discussion of Appleman's Rule or the doctrine of *contra proferentem*. See *id.* at 460-63.

1-25-21 State v. Hakum Brown; State v. Rodney Brown (A-39-19; 083353)

Defendants suffered no ex post facto violation as a result of being charged with failure-to-register offenses bearing the increased degree. The Legislature is free to increase the penalty for the offense of failure to comply with the regulatory registration requirement -- which is separate and apart from defendants' predicate sex offenses -- without violating ex post facto principles as to those predicate offenses.

1-21-21 State v. Amrit Singh (A-37-19; 083236)

The detective should not have referenced defendant in his summary of the surveillance footage. Here, however, that fleeting reference did not amount to plain error in light of the other evidence produced. And the detective's testimony regarding the sneakers was proper. He saw the sneakers on the video prior to testifying and had first-hand knowledge of what the sneakers looked like because he saw defendant wearing them on the night of his arrest. N.J.R.E. 701 requires only that testimony be rationally based on the witness's perception and that such testimony help the jury.

1-19-21 State v. Damon Williams (A-46-19; 083532)

The prosecutor's comments and use of the PowerPoint slide amounted to prejudicial error.

1-14-21 State v. Donnell Gideon (A-31-19; 083178)

Pierre applied existing jurisprudence to a specific set of facts. At a PCR hearing, an alibi witness's false or inaccurate testimony may bear upon the witness's credibility and, while not dispositive, the claimed alibi witness's credibility must be weighed against the strength of the evidence presented at trial and offered post-conviction. Here, considering the strength of the State's case and the weakness of Gideon's alibi -- including the extent to which his proposed witnesses would have contradicted his own account of the relevant events -- the PCR court's finding that Gideon failed to demonstrate prejudice should not have been disturbed.

1-13-21

Elmer Branch v. Cream-O-Land Dairy (A-29-19; 083379)

None of the decisions identified by defendant satisfy the requirements of the good-faith defense under the plain language of N.J.S.A. 34:11-56a25.2. The Court acknowledges, however, the dilemma faced by an employer such as defendant, which repeatedly prevailed in overtime disputes before subordinate Department employees but was unable to seek a ruling that would satisfy that statute because each of those disputes was resolved without further review. The Court respectfully suggests that the Department would further the Legislature's intent if it instituted a procedure by which an employer in defendant's position could obtain an opinion letter or other ruling clarifying its obligations under the WHL's overtime provisions. The Court remands this matter for consideration of defendant's argument that it is a trucking-industry employer within the meaning of N.J.S.A. 34:11-56a4(f) and for determination of whether defendant complied with the applicable WHL overtime standards in compensating its employees.

1-11-21

In re Petition for Expungement of the Criminal Record Belonging to T.O. (A-55-19; 084009)

Pardons remove legal disabilities linked to the conviction itself but do not erase the underlying facts of an offense. Here, T.O. faced a statutory bar that prevented him from being eligible for expungement. That legal disability came into play solely because of his prior convictions. The pardon -- which removed the legal disabilities that arose from those convictions -- therefore dissolved the statutory bar. With the bar removed, T.O. is eligible to be considered for expungement on the merits. In light of the State's concession and the trial court's agreement that T.O. would qualify for expungement in the absence of a statutory bar, the Court grants T.O.'s petition for expungement.

12-21-20

Brian Delaney v. Trent S. Dickey and Sills Cummis & Gross, PC (A-30-19; 083440)

For an arbitration provision in a retainer agreement to be enforceable, an attorney must generally explain to a client the benefits and disadvantages of arbitrating a prospective dispute between the attorney and client. Such an explanation is necessary because, to make an informed decision, the client must have a basic understanding of the fundamental differences between an arbitral forum and a judicial forum in resolving a future fee dispute or malpractice action. See RPC 1.4(c). That information can be conveyed in an oral dialogue or in writing, or by both, depending on how the attorney chooses best to communicate it. The Court refers the issues raised in this opinion to the Advisory Committee on Professional Ethics, which may propose further guidance on the scope of an attorney's disclosure requirements. The new mandate will apply prospectively, except as to Delaney, who must be allowed to proceed with his malpractice action in the Law Division.

12-7-20 Johnson & Johnson v. Director, Division of Taxation (A-51-19; 083612)

The judgment of the Appellate Division is affirmed substantially for the reasons expressed in Judge Haas's thoughtful opinion, which rests heavily on the plain language of N.J.S.A. 17:22-6.64. 461 N.J. Super. at 162-64. The Legislature, of course, may amend the statute if it chooses to do so.

11-2-20 State v. Louis V. Williams (A-40-19; 083400)

Based on the facts of this case, the Court affirms the judgment of the Appellate Division substantially for the reasons expressed in that court's opinion.

9-17-20 Estate of Brandon Tyler Narleski v. Nicholas Gomes (A-9/10-19; 083169)

An underage adult defendant may be held civilly liable to a third-party drunk driving victim if the defendant facilitated the use of alcohol by making his home available as a venue for underage drinking, regardless of whether he is a leaseholder or titleholder of the property; if the guest causing the crash became visibly intoxicated in the defendant's home; and if it was reasonably foreseeable that the visibly intoxicated guest would leave the residence to operate a motor vehicle and cause injury to another. The duty the Court recognizes today was foreshadowed by precedent and therefore will apply in the case of *Zwierzynski*.

9-11-20 Marilyn Flanzman v. Jenny Craig, Inc. (A-66-18; 082207)

The New Jersey Arbitration Act (NJAA), which provides a default procedure for the selection of an arbitrator and generally addresses the conduct of the arbitration, clearly expresses the Legislature's intent that an arbitration agreement may bind the parties without designating a specific arbitrator or arbitration organization or prescribing a process for such a designation. N.J.S.A. 2A:23B-11(a), -15. Under principles of New Jersey law that generally govern contracts, the Agreement at issue is valid and enforceable.