

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: SECOND DEPARTMENT

*Argument Requested By:*  
JENNIFER M. O'CONNOR AND  
STEPHEN L. BRAGA

*60 Minutes Requested*

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PEOPLE OF THE STATE OF NEW YORK

– against –

Docket No. 2006-03617

Suffolk County Indictment  
Nos. 1290/88 & 1535/88

MARTIN H. TANKLEFF,

Defendant-Appellant.

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**BRIEF FOR DEFENDANT-APPELLANT MARTIN H. TANKLEFF**

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**STATEMENT REQUIRED BY CPLR § 5531  
AND 22 NYCRR § 670.10.3(g)(2)(i),(viii)**

1. The index numbers of the case in the court below were 1290/88 & 1535/88. There were no co-defendants at Defendant-Appellant Martin H. Tankleff's trial.
2. The full names of the original and current parties are People of the State of New York against Martin H. Tankleff.
3. Defendant-Appellant commenced this action in County Court, Suffolk County.
4. Defendant-Appellant was convicted and sentenced upon a judgment entered on October 23, 1990 (Tisch, *J.*). On December 22, 1994, the New York Court of Appeals affirmed that judgment on direct review. Following post-conviction proceedings in state and federal courts, Defendant-Appellant commenced the instant action on October 3, 2003, by filing a motion to vacate his convictions pursuant to C.P.L. § 440.10 and an accompanying memorandum of law. On December 12, 2003, the District Attorney filed a response. Following a hearing on the newly discovered evidence, which began on July 19, 2004, and was completed on February 4, 2005, on March 21, 2005, Defendant-Appellant filed a Memorandum of Supplemental Authority, and, on June 14, 2005, the District Attorney filed a response. On August 25, 2005, Defendant-Appellant filed his reply. After the hearing was reopened to take additional testimony pursuant to the court's order dated October 26, 2005, Defendant-Appellant and the District Attorney filed letter briefs on December 23, 2005.
5. Defendant-Appellant's motion under C.P.L. § 440.10 brought forward newly discovered evidence showing conclusively that he had nothing to do with the murder of his parents, including evidence, corroborated by eyewitness testimony, that the true assailants confessed on multiple occasions that they committed the murders. This evidence of Defendant-Appellant's actual innocence entitles him to release under the federal and state constitutions, or, alternatively, to a new trial pursuant to C.P.L. § 440.10(1)(g). In addition, Defendant-Appellant presented three independent claims for relief under the federal and state constitutions.

6. This appeal is from a decision and order of the County Court (Stephen L. Braslow, *J.C.C.*), entered on March 17, 2006, denying all of Defendant-Appellant's claims.
7. On April 17, 2006, Defendant-Appellant filed a motion for leave to appeal the County Court's March 17, 2006 decision pursuant to C.P.L. § 450.15 and § 460.15. On May 25, 2006, the Appellate Division, Second Department (Rivera, *J.*), issued an order and certificate granting that motion. Defendant-Appellant is prosecuting this appeal using the appendix method, pursuant to 22 NYCRR Part § 670.9(b).

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