

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).

## TABLE OF CONTENTS

	Page
STATEMENT REQUIRED BY CPLR § 5531 AND 22 NYCRR § 670.10.3(g)(2)(i),(viii) .....	i
TABLE OF AUTHORITIES.....	xi
QUESTIONS PRESENTED .....	1
INTRODUCTION .....	2
A. Numerous Witnesses Establish that Joseph Creedon and Peter Kent Committed the Tankleff Murders .....	3
B. New Evidence Shows that Jerry Steuerman Hired Creedon to Commit the Murders .....	4
C. The Lead Detective Perjured Himself at Trial.....	5
D. Expert Evidence Establishes that Marty’s “Confession” Was False.....	6
E. The County Court Committed Multiple Legal and Factual Errors in Considering the New Evidence .....	7
F. Marty’s Constitutional Claims Were Ignored By the County Court.....	8
G. This Court Should Immediately Vacate Marty’s Convictions .....	10
FACTUAL AND PROCEDURAL BACKGROUND.....	10
A. Marty Discovers His Parents .....	10
B. The Police Immediately Suspect Marty.....	11
C. Detective McCready and Other Officers Interrogate Marty at the Scene .....	12

D.	Detective McCready Takes Marty To The Police Station, Where Marty is Interrogated for Hours Without <i>Miranda</i> Warnings .....	13
E.	Detective McCready’s Hoax Produces a “Confession” .....	14
F.	The “Confession” Is Not Supported By The Physical Evidence.....	17
G.	The Police Fail To Investigate Jerry Steuerman.....	20
H.	The Verdict Is Close .....	23
I.	A Sharply Divided Appellate Division Upholds the Convictions .....	24
J.	The U.S. Court of Appeals for the Second Circuit Finds a <i>Miranda</i> Violation, But Is Unable To Provide a Remedy.....	25
K.	Marty Files the Present C.P.L. § 440.10 Motion in County Court.....	26
1.	Joseph Creedon Admitted to Multiple Witnesses That He Committed the Tankleff Murders.....	26
2.	Glenn Harris Drove Creedon and Peter Kent to the Tankleff House On the Night of the Murders .....	29
3.	Peter Kent Admitted to Committing the Tankleff Murders, and His “Alibi” Is In Fact Highly Incriminating .....	31
4.	Jerry Steuerman Hired Creedon to Commit the Murders.....	33
5.	Detective McCready Perjured Himself at Marty’s Trial By Falsely Denying His Longstanding Relationship with Jerry Steuerman .....	38
6.	False Confession Experts Reviewed The Circumstances of Marty’s Confession and Found The Confession To Be “Unreliable” and “Almost Certainly False” .....	40

7.	Marty Passed a Polygraph Examination.....	41
L.	The County Court Denies Marty’s § 440.10 Motion .....	42
M.	The Appellate Division, Second Department, Grants Leave to Appeal.....	43
	ARGUMENT .....	44
I.	MARTY’S NEWLY DISCOVERED EVIDENCE DEMONSTRATES HIS ACTUAL INNOCENCE AND, AT A MINIUMUM, ENTITLES HIM TO A NEW TRIAL.....	45
A.	Legal Principles Governing Marty’s Actual Innocence and New Trial Claims.....	45
B.	The County Court’s Analysis of Marty’s New Evidence Was Flawed as a Matter of Law and, In Any Event, the Court Reached Unreasonable Factual Conclusions.....	48
1.	In Rejecting the Multiple Witnesses Who Reported Creedon’s Confessions, the County Court Failed to Consider the Evidence in Its Totality and From the Perspective of a Reasonable Juror.....	52
a)	The County Court Erred in Failing to Accept, Or Even to Acknowledge, the Concession of the DA’s Investigative Report that Creedon Admitted His Involvement in the Tankleff Murders to Numerous People.....	52
b)	The County Court Erroneously Adopted a Virtual <i>Per Se</i> Rule That Witnesses With Criminal Records Are Unworthy of Belief.....	55
c)	In Rejecting Various Witnesses, the County Court Improperly Seized Upon Minor Inconsistencies in Testimony, Relied Upon Speculative and Contrived Motives To Establish Bias, and Ignored Corroborating Witnesses.....	58
(1)	Joseph Guarascio .....	59

	(2) Gaetano Foti.....	60
	(3) Karlene Kovacs and John Guarascio .....	62
	(4) Billy Ram.....	64
	(5) Joseph Graydon.....	65
2.	The County Court Failed to Consider the Statements of Glenn Harris From the Perspective of a Reasonable Juror .....	67
3.	The County Court Failed to Consider Neil Fischer’s Testimony From the Perspective of a Reasonable Juror .....	71
4.	The County Court Erred In Failing to Address Key Pieces of Marty’s New Evidence .....	72
	a) The County Court Wholly Ignored Marty’s Polygraph Evidence, Which Was Unrebutted and Constitutes Strong Proof of His Innocence.....	72
	b) The County Court Ignored Certain Corroborating Witnesses.....	74
	c) The County Court Failed to Consider Evidence From Numerous Family Members Disproving Marty’s Supposed Motive.....	75
5.	The County Court Erred in Rejecting Marty’s False Confession Experts .....	76
6.	The County Court Wrongly Held That It Was Precluded From Considering New Evidence Establishing Detective McCready’s Perjury at Trial .....	82
7.	The County Court Erred in Failing to Consider the Exculpatory Evidence From the Original Trial.....	88

8.	The Allegedly Incriminating Evidence Cited By the County Court is Unpersuasive and Insufficient To Defeat Marty’s Claims .....	91
9.	Considering the Totality of the Evidence, Marty Has Carried His Burden of Showing His Actual Innocence or, Alternatively, the Need For A New Trial .....	96
C.	The County Court Erred In Holding that Certain New Evidence Would Be Inadmissible at Trial and that Marty Did Not Exercise Due Diligence .....	98
1.	The County Court Erred in Its Admissibility Determinations .....	99
a)	Creedon’s Multiple Confessions Would Be Admissible As Prior Inconsistent Statements, As An Exception to the Hearsay Rule for Statements Against Penal Interest, or Under the Due Process Requirements of <i>Holmes v. South Carolina</i> and <i>Chambers v. Mississippi</i> .....	99
(1)	Creedon’s Confessions Would Be Admissible As Prior Inconsistent Statements.....	99
(2)	Alternatively, Creedon’s Confessions Would be Admissible Under the Hearsay Exception for Statements Against Penal Interest .....	100
(3)	In Any Event, Creedon’s Multiple Confessions Would Be Admissible Under the Due Process Requirements of <i>Holmes v. South Carolina</i> and <i>Chambers v. Mississippi</i> .....	103



b)	Kent’s Confessions Would Be Admissible As Prior Inconsistent Statements, As An Exception to the Hearsay Rule for Statements Against Penal Interest, or Under the Due Process Requirements of <i>Holmes v. South Carolina</i> and <i>Chambers v. Mississippi</i> .....	105
c)	Harris’ Statements Would be Admissible Under the Statements-Against-Penal-Interest Exception to the Hearsay Rule, or Under <i>Holmes v. South Carolina</i> and <i>Chambers v. Mississippi</i> .....	107
(1)	Harris’ Statements are Admissible as Statements Against Penal Interest .....	107
(2)	Alternatively, Harris’ Statements are Admissible Under <i>Holmes</i> and <i>Chambers</i> .....	109
d)	Neil Fisher’s Testimony That Jerry Steuerman Admitted to Killing Two People Would Be Admissible As a Prior Inconsistent Statement, As a Statement Against Penal Interest, or as a Matter of Due Process.....	110
e)	The County Court Mislabeled Certain Testimony As Hearsay .....	111
2.	The County Court Also Incorrectly Held That Marty Failed to Exercise Due Diligence .....	113
a)	Marty Exercised Due Diligence With Respect to Kovacs’ Affidavit.....	114
b)	Even Assuming <i>Arguendo</i> That Marty Failed to Exercise Due Diligence With Respect to Kovacs’ Affidavit, That Conclusion Would Not Affect The Other New Evidence .....	116

II.	MARTY’S CONVICTION WAS BASED ON A CONFESSION THAT WAS OBTAINED IN VIOLATION OF HIS FEDERAL AND STATE <i>MIRANDA</i> RIGHTS .....	118
A.	Marty Was In “Custody” Under the Federal and State Standard Well Before the Police Administered <i>Miranda</i> Warnings .....	120
B.	Because Marty Was In Custody, Both His Pre-Warning and Post-Warning Statements Should Have Been Suppressed Under New York Law .....	124
C.	Marty’s Pre-Warning and Post-Warning Statements Should Have Been Suppressed Under Federal Law .....	126
D.	This Court May Reach the Merits of the <i>Miranda</i> Claims Because the Procedural Bar of C.P.L. § 440.10(2)(a) Does Not Apply .....	129
1.	The Second Circuit’s “Custody” Decision is a Relevant “Change in the Law” Warranting Consideration of the <i>Miranda</i> Claims on Their Merits.....	129
2.	<i>Missouri v. Seibert</i> is a Relevant “Change in the Law” Warranting Consideration of the <i>Miranda</i> Claims on Their Merits.....	132
III.	THE PROSECUTION VIOLATED MARTY’S STATE AND FEDERAL DUE PROCESS RIGHTS BY FAILING, UNDER <i>BRADY v. MARYLAND</i> , TO DISCLOSE EXCULPATORY EVIDENCE AND BY FAILING, UNDER <i>GIGLIO v. UNITED</i> <i>STATES</i> , TO CORRECT DETECTIVE McCREADY’S PERJURY AT TRIAL .....	134
A.	The Prosecution Violated its Duty under <i>Brady</i> by Failing to Disclose to the Defense McCready’s Longstanding Relationship with Steuerman.....	135
1.	The Prosecution Failed to Disclose McCready’s Longstanding Relationship With Steuerman, Which Evidence Was Favorable to the Defense .....	136

2.	The Prosecution’s Failure to Disclose This Evidence Prejudiced Marty at Trial By Depriving Him of Important Impeachment Evidence .....	137
B.	The Prosecution Violated its Duty Under <i>Giglio</i> by Failing to Correct McCready’s Perjured Testimony .....	141
1.	Detective McCready Gave False, Uncorrected Testimony .....	141
2.	McCready’s Uncorrected Perjury Clearly Satisfies the Less Demanding Prejudice Standard that Applies to <i>Giglio</i> Claims .....	142
IV.	MARTY’S FEDERAL AND STATE CONSTITUTIONAL RIGHTS TO EFFECTIVE ASSISTANCE OF COUNSEL WERE VIOLATED BY HIS DEFENSE COUNSEL’S FAILURE TO INVESTIGATE AND CALL TO THE STAND NUMEROUS EXCULPATORY FAMILY WITNESSES .....	144
A.	Marty’s Trial Counsel Failed In His Clear Obligation to Investigate and Call to the Stand Witnesses Favorable to the Defense .....	146
B.	Counsel’s Deficient Performance Was Prejudicial and Was Compounded By His Failure to Deliver on His Promise to the Jury that He Would Call Marty’s Family to the Stand .....	149
	CONCLUSION .....	155
	CERTIFICATE OF COMPLIANCE	
	CERTIFICATE OF SERVICE	

## TABLE OF AUTHORITIES

### CASES

	Page(s)
<i>Alvez v. American Export Lines, Inc.</i> , 46 N.Y.2d 634, 389 N.E.2d 461 (1979), <i>aff'd</i> , 446 U.S. 274 (1980).....	131
<i>Amrine v. Bowersox</i> , 128 F.3d 1222 (8th Cir. 1997) .....	47
<i>Anderson v. Butler</i> , 858 F.2d 16 (1st Cir. 1988).....	150
<i>Autocephalous Greek-Orthodox Church of Cyprus v. Goldberg &amp; Feldman Fine Arts, Inc.</i> , 917 F.2d 278 (7th Cir. 1990).....	115
<i>Badr v. Hogan</i> , 75 N.Y.2d 629, 554 N.E.2d 890 (1990) .....	85, 86
<i>Banks v. Dretke</i> , 540 U.S. 668 (2004).....	136
<i>Beachum v. Tansy</i> , 903 F.2d 1321 (10th Cir. 1990) .....	58, 61, 63
<i>Beard v. Banks</i> , 542 U.S. 406 (2004).....	132
<i>Berger v. United States</i> , 295 U.S. 78 (1935).....	10
<i>Berkemer v. McCarty</i> , 468 U.S. 420 (1984).....	123
<i>Bowen v. Maynard</i> , 779 F.2d 593 (10th Cir. 1986) .....	140
<i>Boyer v. State</i> , 825 So. 2d 418 (Fla. Ct. App. 2002).....	82
<i>Brady v. Maryland</i> , 373 U.S. 83 (1963).....	9, 135
<i>Brenen v. Dahlstrom Metallic Door Co.</i> , 189 A.D. 685, 178 N.Y.S. 846 (1st Dep't 1919) .....	131
<i>Bridges v. State</i> , 19 N.W.2d 529 (Wis. 1945).....	113
<i>Chamberlain v. Mantello</i> , 954 F. Supp. 499 (N.D.N.Y. 1997).....	143
<i>Chambers v. Mississippi</i> , 410 U.S. 284 (1973) .....	53, 68, 85, 102, 103, 104, 106, 108, 109, 110
<i>Commonwealth v. Duran</i> , 755 N.E.2d 260 (Mass 2001).....	150

<i>Crane v. Kentucky</i> , 476 U.S. 683 (1986) .....	78, 103
<i>DeLuca v. Ricci</i> , 194 A.D.2d 457, 599 N.Y.S.2d 267 (1st Dep’t 1993).....	112
<i>Dollas v. W.R. Grace &amp; Co.</i> , 225 A.D.2d 319, 639 N.Y.S.2d 323 (1st Dep’t 1996) .....	77
<i>Ex Parte Elizondo</i> , 947 S.W.2d 202 (Tex. Crim. App. 1996) .....	46
<i>Gersten v. Senkowski</i> , 426 F.3d 588 (2nd Cir. 2005).....	77
<i>Giglio v. United States</i> , 405 U.S. 150 (1972).....	9, 135, 141
<i>Green v. Georgia</i> , 442 U.S. 95 (1979) .....	103, 106, 109
<i>Harris v. Reed</i> , 894 F.2d 871 (7th Cir. 1990) .....	150
<i>Herrera v. Collins</i> , 506 U.S. 390 (1993).....	45
<i>Holguin v. Harrison</i> , 399 F. Supp. 2d 1052 (N.D. Cal. 2005).....	123
<i>Holmes v. South Carolina</i> , 126 S. Ct. 1727 (2006).....	85, 103, 104, 106, 109, 110
<i>House v. Bell</i> , 126 S. Ct. 2064 (2006).....	45, 51, 76, 79, 88, 91, 92, 118
<i>In re Clark</i> , 855 P.2d 729 (Cal. 1993).....	45
<i>In re Mackenzie FF</i> , 2 Misc.3d 1012(A), 784 N.Y.S.2d 921, 2004 N.Y. Slip Op. 40304(U) (N.Y. Fam. Ct. 2004) (unpublished) .....	73
<i>In re Travis S.</i> , 180 Misc. 2d 234, 685 N.Y.S.2d 886 (Fam. Ct. 1999), <i>aff’d</i> , 271 A.D.2d 611, 706 N.Y.S.2d 162 (2d Dep’t 2000), <i>aff’d</i> , 96 N.Y.2d 818, 752 N.E.2d 848 (2001) .....	132
<i>Jones v. Stinson</i> , 229 F.3d 112 (2d Cir. 2000) .....	89
<i>Kuhlmann v. Wilson</i> , 477 U.S. 436 (1986).....	144
<i>Kyles v. Whitley</i> , 514 U.S. 433 (1995) .....	136, 137, 139, 140, 144
<i>Miller v. Commissioner of Corr.</i> , 700 A.2d 1108 (Conn. 1997).....	45
<i>Miller v. Indiana</i> , 770 N.E.2d 763 (Ind. 2002) .....	82
<i>Miranda v. Arizona</i> , 384 U.S. 436 (1966).....	<i>passim</i>

<i>Missouri v. Seibert</i> , 542 U.S. 600 (2004).....	1, 120, 127, 128, 132, 133
<i>Morales v. Portuondo</i> , 154 F. Supp. 2d 706 (S.D.N.Y. 2001) .....	100, 109
<i>Mutual Life Ins. Co. of New York v. Hillmon</i> , 145 U.S. 285 (1892).....	112
<i>Napue v. Illinois</i> , 360 U.S. 264 (1959).....	140, 141
<i>New York Rapid Transit Corp. v. City of New York</i> , 275 N.Y. 258, 9 N.E.2d 858 (1937), <i>aff'd</i> , 303 U.S. 573 (1938) .....	131
<i>Oregon v. Elstad</i> , 470 U.S. 298 (1985).....	25, 119, 126, 127, 133
<i>Oregon v. Mathiason</i> , 429 U.S. 492 (1977).....	123
<i>Ouber v. Guarino</i> , 293 F.3d 19 (1st Cir. 2002).....	61, 63, 150
<i>People v. Stephen J.B.</i> , 23 N.Y.2d 611, 246 N.E.2d 344 (1969) .....	132
<i>People v. Angelo</i> , 88 N.Y.2d 217, 666 N.E.2d 1333 (1996).....	73
<i>People v. Baxley</i> , 84 N.Y.2d 208, 639 N.E.2d 746 (1994) .....	50
<i>People v. Bell</i> , 179 Misc. 2d 410, 686 N.Y.S.2d 259 (N.Y. Sup. Ct. 1998).....	116
<i>People v. Benevento</i> , 91 N.Y.2d 708, 697 N.E.2d 584 (1998) .....	145, 154
<i>People v. Bethea</i> , 67 N.Y.2d 364, 993 N.E.2d 937 (1986).....	124
<i>People v. Bleakley</i> , 69 N.Y.2d 490, 508 N.E.2d 672 (1987) .....	49, 51
<i>People v. Bonino</i> , 1 N.Y.2d 752, 135 N.E.2d 51 (1956).....	131, 132
<i>People v. Boyette</i> , 201 A.D.2d 490, 607 N.Y.S.2d 402 (2d Dep't 1994).....	47, 98
<i>People v. Brown</i> , 117 Misc. 2d 587, 459 N.Y.S.2d 227 (Co. Ct. 1983).....	76
<i>People v. Brown</i> , 45 N.Y.2d 852, 382 N.E.2d 1149 (1978) .....	145
<i>People v. Bryce</i> , 287 A.D.2d 799 (3d Dep't 2001) .....	50, 134
<i>People v. Chapple</i> , 38 N.Y.2d 112, 341 N.E.2d 243 (1975).....	25, 119, 124, 126

<i>People v. Clark</i> , 203 A.D.2d 935, 611 N.Y.S.2d 387 (4th Dep’t 1994).....	113
<i>People v. Claudio</i> , 83 N.Y.2d 76, 629 N.E.2d 384 (1993) .....	145
<i>People v. Cole</i> , 1 Misc. 3d 531, 765 N.Y.S.2d 477 (Sup. Ct. 2003).....	45, 46, 47, 74, 84, 88, 98
<i>People v. Comstock</i> , 266 A.D.2d 856, 698 N.Y.S.2d 812 (4th Dep’t 1999).....	57
<i>People v. Cook</i> , 82 Misc. 2d 875, 372 N.Y.S.2d 10 (Co. Ct. 1975) .....	131
<i>People v. Darrisaw</i> , 206 A.D.2d 661, 614 N.Y.S.2d 622 (3d Dep’t 1994).....	101, 108
<i>People v. Droz</i> , 39 N.Y.2d 457, 348 N.E.2d 880 (1976) .....	148
<i>People v. Duncan</i> , 46 N.Y.2d 74, 385 N.E.2d 572 (1978) .....	99, 105
<i>People v. Egan</i> , 78 A.D.2d 34, 434 N.Y.S.2d 55 (4th Dep’t 1980).....	100
<i>People v. Esteves</i> , 152 A.D.2d 406, 549 N.Y.S.2d 30 (2d Dep’t 1989) .....	103
<i>People v. Farrell</i> , 159 Misc. 2d 992, 607 N.Y.S.2d 557 (Sup. Ct. 1994).....	116
<i>People v. Fields</i> , 66 N.Y.2d 876, 489 N.E.2d 728 (1985) .....	108
<i>People v. Fonfrias</i> , 204 A.D.2d 736, 612 N.Y.S.2d 421 (2d Dep’t 1994).....	100, 108
<i>People v. Garcia</i> , 75 N.Y.2d 973, 555 N.E.2d 902 (1990).....	145
<i>People v. Gioeli</i> , 288 A.D.2d 488, 733 N.Y.S.2d 242 (2d Dep’t 2001) .....	50
<i>People v. Harris</i> , 81 A.D.2d 839, 438 N.Y.S.2d 843 (2d Dep’t 1981).....	146
<i>People v. Hildenbrant</i> , 125 A.D.3d 819, 509 N.Y.S.2d 919 (3d Dep’t 1986).....	115
<i>People v. Hobot</i> , 84 N.Y.2d 1021 (1995).....	154
<i>People v. Jackson</i> , 29 A.D.3d 328, 2006 N.Y. Slip Op. 03502 (1st Dep’t 2006) .....	51, 85

*People v. James*, 242 A.D.2d 389, 661 N.Y.S.2d 273 (2d Dep’t 1997) ..... 103

*People v. Jones*, 65 A.D.2d 802, 410 N.Y.S.2d 304 (2d Dep’t 1978) ..... 149

*People v. Kan*, 164 A.D.2d 771, 559 N.Y.S.2d 717 (1st Dep’t 1990),  
*aff’d on other grounds*, 78 N.Y.2d 54, 574 N.E.2d 1042 (1991)  
..... 130, 131, 132

*People v. Kemp*, 59 A.D.2d 414, 399 N.Y.S.2d 879 (1st Dep’t 1977) ..... 74

*People v. Kidd*, 76 A.D.2d 665, 431 N.Y.S.2d 542 (1st Dep’t 1980)..... 50, 134

*People v. LaBree*, 34 N.Y.2d 257, 313 N.E.2d 730 (1974) ..... 146

*People v. Lewis*, 165 Misc. 2d 814, 630 N.Y.S.2d 605 (Sup. Ct. 1995)..... 84

*People v. Lopez*, 95 A.D.2d 241, 465 N.Y.S.2d 998 (2d Dep’t 1983)..... 50

*People v. Maldonado*, 278 A.D.2d 513, 718 N.Y.S.2d 387 (2d Dep’t  
2000)..... 148

*People v. Malizia*, 92 A.D.2d 154, 460 N.Y.S.2d 23 (1983), *aff’d*, 62  
N.Y.2d 755, 465 N.E.2d 364 (1984)..... 112, 113

*People v. Marty*, 294 N.Y. 61, 60 N.E.2d 541 (1945), *aff’d*, 326 U.S.  
496 (1946) ..... 131

*People v. Marzed*, 161 Misc. 2d 309, 613 N.Y.S.2d 826 (N.Y. Crim.  
Ct. 1993)..... 85, 86

*People v. Mensche*, 276 A.D.2d 834, 714 N.Y.S.2d 377 (3d Dep’t  
2000)..... 57

*People v. Miller*, 2 Misc.3d 1006 (784 N.Y.S.2d 923, 2004 WL  
615136 (N.Y. Co. Ct. 2004) ..... 73

*People v. Mills*, 1 N.Y.3d 269, 276, 2003 N.Y. Slip Op. 17888 (2003) ..... 108

*People v. Neal*, 72 P.3d 280 (Cal. 2003) ..... 144

*People v. Neely*, 219 A.D.2d 494, 645 N.Y.S.2d 494 (2d Dep’t 1996) ..... 49

*People v. Obieke*, 186 Misc. 2d 708, 712 N.Y.S.2d 919 (Sup. Ct 2000)..... 132



<i>People v. Ortiz</i> , 119 Misc. 2d 572, 463 N.Y.S.2d 713 (Sup. Ct., 1983).....	102
<i>People v. Paulman</i> , 5 N.Y.2d 122, 833 N.E.2d 239 (2005).....	125
<i>People v. Ramos</i> , 132 Misc. 2d 609, 505 N.Y.S.2d 511 (Sup. Ct. 1985).....	85, 88
<i>People v. Ramos</i> , 201 A.D.2d 78, 614 N.Y.S.2d 977 (1st Dep’t 1994).....	155
<i>People v. Rensing</i> , 14 N.Y.2d 210, 199 N.E.2d 489 (1964) .....	92
<i>People v. Ressler</i> , 17 N.Y.2d 174, 216 N.E.2d 582 (1966) .....	108
<i>People v. Ricardo B.</i> , 73 N.Y.2d 228, 535 N.E.2d 1336 (1989).....	134
<i>People v. Ricco</i> , 56 N.Y.2d 320, 437 N.E.2d 1097 (1982).....	112
<i>People v. Ripic</i> , 182 A.D.2d 226, 587 N.Y.S.2d 776 (3d Dep’t 1992).....	123, 125
<i>People v. Robinson</i> , 89 N.Y.2d 648, 679 N.E.2d 1055 (1997).....	103, 106, 109
<i>People v. Rodriguez</i> , 38 N.Y.2d 95, 341 N.E.2d 231 (1975).....	108
<i>People v. Romero</i> , 78 N.Y.2d 355, 581 N.E.2d 1048 (1991) .....	111
<i>People v. Salemi</i> , 309 N.Y. 208, 128 N.E.2d 377 (1955) .....	47, 85, 98, 134
<i>People v. Santos</i> , 306 A.D.2d 197, 761 N.Y.S.2d 651 (1st Dep’t 2003), <i>aff’d</i> , 1 N.Y.3d 548, 807 N.E.2d 881 (2003).....	85
<i>People v. Scott</i> , 88 N.Y.2d 888, 667 N.E.2d 923 (1996) .....	135
<i>People v. Settles</i> , 46 N.Y.2d 154, 385 N.E.2d 612 (1978) .....	100, 101, 105, 106, 107, 108, 110
<i>People v. Simmons</i> , 110 A.D.2d 666, 487 N.Y.S.2d 396 (3d Dep’t 1985).....	149
<i>People v. Smith</i> , 195 A.D.2d 112, 606 N.Y.S.2d 656 (1st Dep’t 1994) .....	108
<i>People v. Sturdivant</i> , 21 A.D.3d 581, 799 N.Y.S.2d 835 (3d Dep’t 2005).....	125
<i>People v. Sullivan</i> , 209 A.D.2d 558, 618 N.Y.S.2d 916 (2d Dep’t 1994).....	149

<i>People v. Tankleff</i> , 199 A.D.2d 550, 606 N.Y.S.2d 707 (2d Dep’t 1993).....	24, 121, 123
<i>People v. Tankleff</i> , 84 N.Y.2d 992, 646 N.E.2d 805 (1994).....	24
<i>People v. Tankleff</i> , 93 N.Y.2d 1034 (1999) .....	26
<i>People v. Thomas</i> , 68 N.Y.2d 194, 500 N.E.2d 293 (1986) .....	100, 101, 107
<i>People v. Thompson</i> , 177 Misc. 2d 803, 678 N.Y.S.2d 845 (Sup. Ct. 1998).....	134
<i>People v. Tran</i> , 80 N.Y.2d 170, 603 N.E.2d 450 (1992) .....	112, 113
<i>People v. Washington</i> , 665 N.E.2d 1330 (Ill. 1995) .....	45
<i>People v. Wise</i> , 46 N.Y.2d 321, 385 N.E.2d 1262 (1978) .....	99
<i>People v. Wong</i> , 11 A.D.3d 724, 784 N.Y.S.2d 158 (3d Dep’t 2004) .....	46, 47, 50, 51, 56, 58, 88
<i>Phoenix v. Matesanz</i> , 189 F.3d 20 (1st Cir. 1999).....	77
<i>Poppe v. Poppe</i> , 3 N.Y.2d 312, 144 N.E.2d 72 (1957).....	108
<i>Quartararo v. Mantello</i> , 715 F. Supp. 449 (E.D.N.Y. 1989), <i>aff’d</i> , 888 F.2d 126 (2d Cir. 1989).....	88
<i>Rhode Island v. Innis</i> , 446 U.S. 291 (1980).....	121
<i>Robinson v. California</i> , 370 U.S. 660 (1962).....	45
<i>Rochin v. California</i> , 342 U.S. 165 (1952) .....	45
<i>Rock v. Arkansas</i> , 483 U.S. 44 (1987) .....	103
<i>Rompilla v. Beard</i> , 545 U.S. 374 (2005).....	146
<i>Schlup v. Delano</i> , 513 U.S. 298 (1995).....	48, 52, 57, 59, 72, 74, 144
<i>Schneck v. Lewis</i> , 121 Misc. 370, 201 N.Y.S. 282 (Sup. Ct. 1923).....	131
<i>Schneider v. Estelle</i> , 552 F.2d 593 (Tex. App. 1977) .....	142
<i>Schreyer v. Platt</i> , 134 U.S. 405 (1890) .....	58

<i>Smith v. Baldwin</i> , 466 F.3d 805 (9th Cir. 2006).....	43
<i>Stansbury v. California</i> , 511 U.S. 318 (1994).....	123
<i>State ex rel. Amrine v. Roper</i> , 102 S.W.3d 541 (Mo. 2003) .....	45
<i>Strickland v. Washington</i> , 466 U.S. 668 (1984).....	145, 146, 149, 155
<i>Strickler v. Greene</i> , 527 U.S. 263 (1999).....	135
<i>Tankleff v. Senkowski</i> , 135 F.3d 235 (2d Cir. 1998) .....	<i>passim</i>
<i>Taylor v. Kentucky</i> , 436 U.S. 478 (1978).....	144
<i>Thompson v. Keohane</i> , 516 U.S. 99 (1995) .....	121
<i>United States v. Agurs</i> , 427 U.S. 97 (1976) .....	141, 143
<i>United States v. Crumby</i> , 895 F. Supp. 1354 (D. Ariz. 1995).....	73
<i>United States v. Espinosa-Hernandez</i> , 918 F.2d 911 (11th Cir. 1990).....	142
<i>United States v. Galbreth</i> , 908 F. Supp. 877 (D.N.M. 1995).....	73
<i>United States v. Garsson</i> , 291 F. 646 (S.D.N.Y. 1923) .....	156
<i>United States v. Hall</i> , 93 F.3d 1337 (7th Cir. 1996) <i>aff'd</i> , 165 F.3d 1095 (7th Cir. 1999).....	77, 82
<i>United States v. Muscato</i> , 534 F. Supp. 969 (E.D.N.Y. 1982).....	113
<i>United States v. Ollie</i> , 442 F.3d 1135 (8th Cir. 2006) .....	128
<i>United States v. Rodgers</i> , 186 F. Supp. 2d 971 (E.D. Wis. 2002) .....	77, 78, 79
<i>United States v. Sanchez</i> , 813 F. Supp. 241 (S.D.N.Y. 1993) .....	142
<i>United States v. Turner</i> , 490 F. Supp. 583 (E.D. Mich. 1979), <i>aff'd</i> , 633 F.2d 219 (6th Cir. 1980).....	142
<i>United States v. White</i> , 27 F. Supp. 2d 646 (E.D.N.C. 1998) .....	57
<i>United States v. Williams</i> , 435 F.3d 1148 (9th Cir. 2006) .....	128

<i>Washington v. Hoke</i> , 144 Misc. 2d 336, 544 N.Y.S.2d 942 (Sup. Ct. 1989).....	131
<i>Washington v. Miller</i> , No. 15279-1-III, 1997 WL 328740 (Wash. Ct. App. June 17, 1997).....	81
<i>Washington v. Texas</i> , 388 U.S. 14 (1967).....	103
<i>Wedra v. Thomas</i> , 671 F.2d 713 (2d Cir. 1982).....	142
<i>Wiggins v. Smith</i> , 539 U.S. 510 (2003).....	146, 148
<i>Williams v. Taylor</i> , 529 U.S. 362 (2000).....	146, 148
<i>Youngblood v. West Virginia</i> , 126 S. Ct. 2188 (2006).....	136

### CONSTITUTIONS AND STATUTES

N.Y. Const. Article I, § 6 .....	120
----------------------------------	-----

#### C.P.L.

§ 440.....	<i>passim</i>
§ 440.10(1)(b) .....	135
§ 440.10(1)(c).....	135
§ 440.10(1)(g) .....	1, 7, 46, 97, 98, 113, 114, 117
§ 440.10(1)(h) .....	45, 135
§ 440.10(2)(a).....	120, 129, 133
§ 440.10(3) .....	84, 85, 143
§ 440.10(3)(b) .....	84, 143
§ 450.15.....	43
§ 460.15.....	43
§ 470.15(1) .....	49
§ 470.15(3)(c).....	50, 144

N.Y. Judiciary Law § 2-b[3] .....	45, 134
-----------------------------------	---------

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<i>People v. Lemus</i> , N.Y.L.J., October 25, 2005 (Sup. Ct., N.Y. Co., Justice Hayes).....	115
<i>People v. Shawn Brown</i> , N.Y.L.J., August 21, 1998 (Sup. Ct., Queens Co. 1998).....	150
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