



*State of New York
Court of Appeals*

*Stuart M. Cohen
Clerk of the Court*

*Clerk's Office
Albany, New York 12207*

NOTICE TO THE BAR

Amicus Curiae Participation

On June 1, 2009, a Judge of the Court granted leave to appeal to the pro se defendant in People v Juan Rivera. The appeal is being reviewed under the Court's alternative procedure pursuant to section 500.11 of the Court's Rules of Practice.

In October 2004, defendant pleaded guilty to robbery in the first degree in return for 10 years' imprisonment. During the plea, defendant was not informed that a period of post-release supervision (PRS) was mandatory. At sentencing, defendant received the agreed-upon prison term plus 5 years' PRS. Appellate counsel filed a brief without challenging the voluntariness of the plea based on the failure to advise defendant that PRS would be imposed. The Appellate Division affirmed (30 AD3d 171 [1st Dept 2006], lv denied 7 NY3d 794 [2006]) and thereafter denied defendant's application for a writ of error coram nobis and other relief (1st Dept, March 26, 2009, indictment No. 2497/04, M-267 [copy attached]). Defendant argues that appellate counsel was ineffective because she did not seek vacatur of the guilty plea based upon People v Catu (4 NY3d 252 [2005]), which was decided before defendant's brief was submitted to the Appellate Division.

The Court invites amicus curiae participation from those qualified and interested.

Amicus motions must comply with section 500.23 of the Rules of the Court of Appeals. The text of the Rule is available on the Court's internet web site at:

<http://www.courts.state.ny.us/ctapps/500rules08.htm>.

Questions may be directed by telephone to the Clerk's Office at (518) 455-7705.

August 12, 2009

Stuart M. Cohen
Clerk of the Court

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on March 26, 2009.

PRESENT - Hon. Angela M. Mazzarelli, Justice Presiding,
Richard T. Andrias
David B. Saxe
Leland G. DeGrasse, Justices.

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The People of the State of New York,
Respondent,

-against-

M-267
Ind. No. 2497/04

Juan Rivera,
Defendant-Appellant.

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A decision and order of this Court having been entered on June 1, 2006 (Appeal No. 8660), unanimously affirming the judgment of the Supreme Court, New York County (Ronald A. Zweibel, J.), rendered on December 10, 2004,

And defendant-appellant having moved, in the nature of a writ of error coram nobis, for a review of his claim of ineffective assistance of appellate counsel, and for related relief,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that said application is denied.

E N T E R:


Clerk.