

APPEAL

# State of New York

## Court of Appeals

BEFORE: HON. MADELINE SINGAS, Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,  
- against -

DARRELL GUNN,

Appellant.

**ORDER  
DISMISSING  
LEAVE**

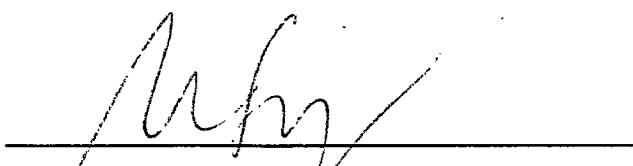
Ind. No. 2003-0242-1

Appellant having applied for leave to appeal to this Court pursuant to Criminal Procedure Law (CPL) § 460.20 from an order in the above-captioned case;\*

UPON the papers filed and due deliberation, it is

ORDERED that the application is dismissed because the order sought to be appealed from is not appealable under CPL § 450.90(1).

Dated: July 17, 2024



Associate Judge

\*Description of Order: Order of a Justice of the Appellate Division, Fourth Department, dated May 9, 2024, denying leave to appeal from an order of County Court, Onondaga County, dated January 30, 2024.

APPENDIX

B

SUPREME COURT OF THE STATE OF NEW YORK  
Appellate Division, Fourth Judicial Department

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KA 24-00392

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

v

DARRELL GUNN, DEFENDANT.

Indictment No.: 2003-0242-1

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Defendant having moved for a certificate granting leave to appeal pursuant to CPL 460.15 from an order of the Onondaga County Court, dated January 30, 2024.

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

It is hereby ORDERED that the motion is denied.

DATED: 5/9/24

  
Hon. Henry J. Nowak  
Associate Justice

Supreme Court  
APPELLATE DIVISION  
Fourth Judicial Department  
Clerk's Office, Rochester, N.Y. }

*I, ANN DILLON FLYNN, Clerk of the Appellate Division of the Supreme Court in the Fourth Judicial Department, do hereby certify that this is a true copy of the original document, now on file in this office.*

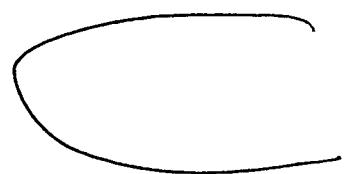


*IN WITNESS HEREOF, I have hereunto set my hand and affixed the seal of said Court at the City of Rochester, New York, this*

**MAY 13 2024**

Ann Dillon Flynn  
*Clerk*

APPENDIX



SUPREME COURT OF THE STATE OF NEW YORK  
Appellate Division, Fourth Judicial Department

**MOTION NO. 1568/06**

**KA 05-00836**

PRESENT: SMITH, J.P., LINDLEY, GREENWOOD, NOWAK, AND KEANE, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

DARRELL GUNN, DEFENDANT-APPELLANT.

Indictment No: 2003-0242-1

---

Appellant having moved for a writ of error coram nobis vacating the order of the Court, entered December 22, 2006, affirming a judgment of the Onondaga County Court, rendered October 2, 2003,

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

It is hereby ORDERED that the motion is denied.

Entered: March 15, 2024

Ann Dillon Flynn  
Clerk of the Court

Supreme Court  
APPELLATE DIVISION }  
Fourth Judicial Department  
Clerk's Office, Rochester, N.Y.

*I, ANN DILLON FLYNN, Clerk of the Appellate Division of the Supreme Court in the Fourth Judicial Department, do hereby certify that this is a true copy of the original document, now on file in this office.*



*IN WITNESS HEREOF, I have hereunto set my hand and affixed the seal of said Court at the City of Rochester, New York, this*

**MAR 15 2024**

Ann Dillon Flynn  
Clerk

APPendix D

# State of New York

## Court of Appeals

BEFORE: HON. MICHAEL J. GARCIA  
Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,  
-against-  
DARRELL GUNN,

**ORDER  
DENYING  
LEAVE**

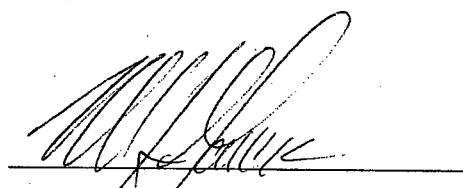
Appellant.

Appellant having applied for leave to appeal to this Court pursuant to Criminal Procedure Law § 460.20 from an order in the above-captioned case;\*

UPON the papers filed and due deliberation, it is  
ORDERED that the application is denied.

Dated: June 4, 2024

at Albany, New York



Associate Judge

\*Description of Order: Order of the Supreme Court, Appellate Division, Fourth Department, entered March 15, 2024, denying defendant's motion for a writ of error coram nobis.

APPENDIX E

State of New York  
Court of Appeals

BEFORE: HON. VICTORIA A. GRAFFEO,  
Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

DARRELL GUNN,

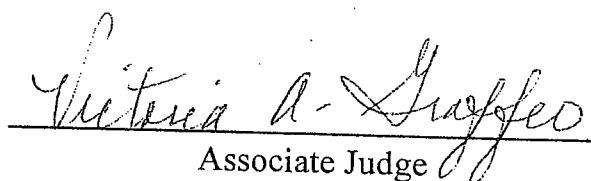
**CERTIFICATE  
DENYING  
LEAVE**

Appellant.

I, VICTORIA A. GRAFFEO, Associate Judge of the Court of Appeals of the State of New York, do hereby certify that upon application timely made by the above-named appellant for a certificate pursuant to section 460.20 of the Criminal Procedure Law and upon the record and proceedings herein,\* there is no question of law presented which ought to be reviewed by the Court of Appeals and permission is hereby denied.

Dated: March 5<sup>th</sup>, 2007

at Albany, New York

  
Associate Judge

\* Order of the Appellate Division, Fourth Department, entered December 22, 2006, affirming a judgment of the County Court, Onondaga County, rendered October 2, 2003.

APPENDIX

F

# State of New York

## Court of Appeals

BEFORE: HONORABLE VICTORIA A. GRAFFEO, Associate Judge

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THE PEOPLE OF THE STATE OF NEW YORK,  
Respondent,

**CERTIFICATE  
DENYING  
APPLICATION FOR  
RECONSIDERATION**

-against-

DARRELL GUNN,  
Appellant.

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I, VICTORIA A. GRAFFEO, Associate Judge of the Court of Appeals of the State of New York, certify that the application made by the above-named appellant for reconsideration of the March 5<sup>th</sup>, 2007 certificate denying application for leave to appeal\* pursuant to section 460.20 of the Criminal Procedure Law is hereby denied.

Dated: May 4<sup>th</sup>, 2007  
at Albany, New York

*Victoria A. Graffeo*  
Associate Judge

\*Order of the Appellate Division, Fourth Department, entered December 22, 2006, affirming a judgment of the County Court, Onondaga County, rendered October 2, 2003.

APPENDIX  
G

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

**1292**

**KA 11-02329**

PRESENT: WHALEN, P.J., CENTRA, LINDLEY, DEJOSEPH, AND SCUDDER, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DARRELL GUNN, DEFENDANT-APPELLANT.

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D.J. & J.A. CIRANDO, ESQS., SYRACUSE (JOHN A. CIRANDO OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (VICTORIA M. WHITE OF COUNSEL), FOR RESPONDENT.

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Appeal from a resentence of the Onondaga County Court (Joseph E. Fahey, J.), rendered October 18, 2011. Defendant was resentenced upon his conviction of attempted murder in the first degree.

It is hereby ORDERED that the resentence so appealed from is unanimously affirmed.

Memorandum: Defendant was convicted upon his plea of guilty of murder in the first degree (Penal Law § 125.27 [1] [a] [vii]; [b]) and attempted murder in the first degree (§§ 110.00, 125.27 [1] [a] [vii]; [b]), and he now appeals from a resentence with respect to that conviction. County Court originally sentenced defendant to a determinate term of imprisonment for the count of attempted murder, and we affirmed the judgment of conviction (*People v Gunn*, 35 AD3d 1243, lv denied 8 NY3d 923, reconsideration denied 8 NY3d 985). The court had failed, however, to impose a period of postrelease supervision with respect to that count, as required by Penal Law § 70.45 (1). To remedy that error (see Correction Law § 601-d; *People v Sparber*, 10 NY3d 457, 465), with the People's consent, the court resentenced defendant prior to the completion of his sentence to the same term of imprisonment without imposing a period of postrelease supervision (see Penal Law § 70.85).

Defendant failed to preserve for our review his contention that he was denied due process because the resentence violated his statutory right to have his sentence pronounced "without unreasonable delay" (CPL 380.30 [1]), and because he was not given notice pursuant to Correction Law § 601-d (2) that he was a "designated person" (see *People v Woods*, 122 AD3d 1400, 1401, lv denied 25 NY3d 1210; *People v Diggs*, 98 AD3d 1255, 1256, lv denied 20 NY3d 986). We decline to exercise our power to review that contention as a matter of discretion in the interest of justice (see CPL 470.15 [3] [c]). Contrary to

defendant's further contention, he was not denied effective assistance of counsel at the resentencing proceeding (see *Woods*, 122 AD3d at 1401-1402; *People v Williams*, 82 AD3d 1576, 1578, lv denied 17 NY3d 810; see generally *People v Baldi*, 54 NY2d 137, 147).

Entered: February 3, 2017

Frances E. Cafarell  
Clerk of the Court

APPENDIX

SUPREME COURT OF THE STATE OF NEW YORK  
Appellate Division, Fourth Judicial Department

MOTION NO. 1568/06

KA 05-00836

PRESENT: WHALEN, P.J., CENTRA, LINDLEY, CURRAN, AND DEJOSEPH, JJ.

PEOPLE OF THE STATE OF NEW YORK, PLAINTIFF-RESPONDENT,

v

DARRELL GUNN, DEFENDANT-APPELLANT.

Indictment No: 2003-0242-1

Appellant having moved for a writ of error coram nobis vacating the order of this Court entered December 22, 2006, affirming a judgment of the Onondaga County Court, rendered October 2, 2003,

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

It is hereby ORDERED that the motion is denied.

Entered: July 17, 2020

Mark W. Bennett  
Clerk of the Court

APPENDIX ~~B~~ BH

Supreme Court  
APPELLATE DIVISION  
Fourth Judicial Department  
Clerk's Office, Rochester, N.Y. }

*I, MARK W. BENNETT, Clerk of the Appellate Division of the Supreme Court in the Fourth Judicial Department, do hereby certify that this is a true copy of the original order, now on file in this office.*

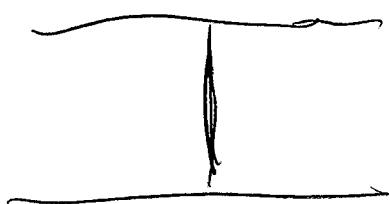


*IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at the City of Rochester, New York, this*

**JUL 17 2020**

Mark W. Bennett  
Clerk

APPENDIX



# State of New York

## Court of Appeals

BEFORE: HON. MICHAEL J. GARCIA  
Associate Judge

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THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,  
-against-  
DARRELL GUNN,

**ORDER  
DENYING  
LEAVE**

Appellant.

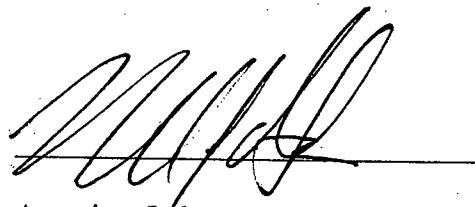
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Appellant having applied for leave to appeal to this Court pursuant to Criminal Procedure Law § 460.20 from an order in the above-captioned case;\*

UPON the papers filed and due deliberation, it is  
ORDERED that the application is denied.

Dated: December 30, 2020

at Albany, New York

  
Associate Judge

\*Description of Order: Order of the Supreme Court, Appellate Division, Fourth Department, entered July 17, 2020, denying an application for a writ of error coram nobis.

APPENDIX

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J

SUPREME COURT OF THE STATE OF NEW YORK  
Appellate Division, Fourth Judicial Department

Case No: 1568/06

KA 05-00836

PRESENT: SMITH, J.P., LINDLEY, NEMOYER, CURRAN, AND MONTOUR, JJ.

---

PEOPLE OF THE STATE OF NEW YORK, PLAINTIFF-RESPONDENT,

v

DARRELL GUNN, DEFENDANT-APPELLANT.

Indictment No: 2003-0242-1

---

Appellant having moved for a writ of error coram nobis to vacate the order of this Court entered December 22, 2006, which affirmed a judgment of Onondaga County Court, rendered October 2, 2003,

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

It is hereby ORDERED that the motion is denied.

Entered: December 23, 2022

Ann Dillon Flynn  
Clerk of the Court

Supreme Court  
APPELLATE DIVISION  
Fourth Judicial Department  
Clerk's Office, Rochester, N.Y.

*I, ANN DILLON FLYNN, Clerk of the Appellate Division of the Supreme Court in the Fourth Judicial Department, do hereby certify that this is a true copy of the original document, now on file in this office.*



*IN WITNESS HEREOF, I have hereunto set my hand and affixed the seal of said Court at the City of Rochester, New York, this DEC 23 2022*

Ann Dillon Flynn  
Clerk

X

H

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Z V

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X

# State of New York

## Court of Appeals

BEFORE: HON. MICHAEL J. GARCIA  
Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,  
-against-

DARRELL GUNN,  
Appellant.

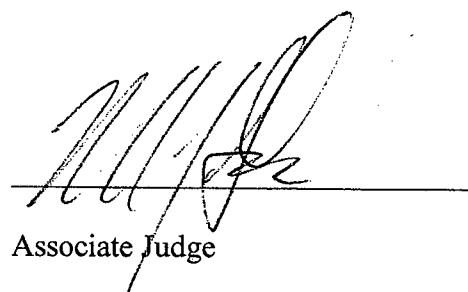
**ORDER  
DENYING  
LEAVE**

Appellant having applied for leave to appeal to this Court pursuant to Criminal Procedure Law § 460.20 from an order in the above-captioned case;\*

UPON the papers filed and due deliberation, it is  
ORDERED that the application is denied.

Dated: March 15, 2023

at Albany, New York



Associate Judge

\*Description of Order: Order of the Supreme Court, Appellate Division, Fourth Department, entered December 23, 2022, denying defendant's motion for a writ of error coram nobis.

APPENDIX

L

THE COUNTY OF NEW YORK  
MANUFACTURE OF BISCUITS, COOKIES, & BAKED CONFECTIONERY

42800-92 Act

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

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### DATA-INT. COMM. DEPENDENCY.

http://dx.doi.org/10.1186/1471-2105-12-103

## Associative Tables

4665 | 5 | of

~~EXHIBIT~~  
EXHIBIT  
1



RECEIVED  
CHAMBERS  
JOSEPH E FAHEY  
AUG 28 '03  
8/25/03  
COUNTY COURT  
ONONDAGA COUNTY

DEAR Honorable Judge FAHEY,

8/25/03

I DARRELL GUNN determined TO  
TAKE MY GUILTY PLEA BACK, THERE ARE  
NUMEROUS REASONS FOR THIS, THE MOST  
IMPORTANT I would like to go TO TRIAL.  
MY ATTORNEYS have NOT been acting in  
my best interest. THERE has been NO  
INVESTIGATION in my CASE what so ever.  
I have been threatened by my attorneys they  
will "come in and beat me up if I don't  
Plea GUILTY", when I didn't Plead GUILTY  
ON 8/15/03 Tom said he WAS disappointed  
IN ME AND THAT I'M on MY OWN. He told  
ME TO MAKE A PROMISE that I will Plead  
GUILTY ON 8/21/03, I did NOT MAKE THAT  
PROMISE. He said he CAN have me MAKE AN  
ALFORD PLEA AND IF D. A. Does NOT agree  
I CAN have A TRIAL. IT'S very bland for  
ME TO CALL George HIS phone HANGS UP  
when I've IS SWITCHOVER, EARLY LAST YEAR  
AND THIS YEAR HIS COLLECT CALL SERVICE WAS  
NOT AVAILABLE FOR LEGAL REASONS. I told  
MY LAWYERS I WANT TO CHANGE MY PLEA  
JUST RECENTLY, Tom said I will get out  
OF JAIL. George said Now the weight  
should be OFF my shoulders AND I Should  
make 1 year AND 5 years goals. I told them  
I didn't want to Plead GUILTY they forced  
me too. I ALSO have been kept in BOP  
FOR TWO weeks Tom said this is good  
FOR ME, THEY ALSO TOOK PICTURES OF MY  
SON STAYING SINCE I WILL NOT Plead GUILTY  
I CAN'T HAVE MY PICTURES OF MY SON THAT  
I DESPERATELY NEED. I Plead GUILTY AND THEY STILL  
HAVE NOT RETURNED THE PICTURES.



Also the 120 day extension was because George had a wedding. This has affected my case. I have not been in George's best interest. NO ONE interviewed the child's mother who and her sister has a lot to do with this case. I informed my lawyers of facts and truth.

I DARELL A. GUNN take my Plea  
OF GUILTY BACK!

I told Tom and George 8/21/03 and 8/22/03 that I will take my plea back.

Sincerely yours,  
Darrell

I called and wrote them I still have not got a response. I have not seen or heard of the media coverage from when the case began to now. They tell me they will let me see it & it never happened.

PLEASE HELP ME!

RECEIVED  
CHAMBERS  
JOSEPH E. FAHEY

SEP - 8 '03

COUNTY COURT  
ONONDAGA COUNTY

DEAR HONORABLE JUDGE FAHEY,

Revd

9/3/03

I, DARRELL A. GUNAL would like you to disregard my previous letter. I am satisfied with my guilty plea AND MY CURRENT ATTORNEYS.

I AM EXPERIENCING EMOTIONAL DURESS due to CIRCUMSTANCES OF MY CASE AND SITUATIONS HERE AT THE JUSTICE CENTER PLUS FAMILY PROBLEMS. I REFERRED TO YOU because OF THE OPPORTUNITY YOU GIVE ME TO ANSWER QUESTIONS.

HERE AT THE JUSTICE CENTER I'M CURRENTLY IN ADMINISTRATIVE SEGREGATION SPECIAL HOUSING UNIT (BOX). THIS OCCURRED ON 8/10/03 I DID NOTHING AND WAS MACED AND HAVE NO IDEAS OF WHEN I WILL BE LET OUT OF BOX. THEY DEPRIVED ME OF MY BIBLE AND WOULD NOT INFORM ME REASON OR REASONS I HAVE BEEN TOLD TO MOVE TO PROTECTIVE CUSTODY. THE STAFF HERE HAS BEEN TORTURING ME WITH P.C. ENVIRONMENT. MY ATTORNEYS ARE NOT ALLOWED IN MY HEARING BECAUSE HEARING OFFICER SAID "YOU PLEAD GUILTY YOU ONLY HAVE A SENTENCE DATE LEFT SO YOUR ATTORNEYS ARE NO LONGER WORKING ON YOUR CASE." I HAVE BEEN REFUSING TO SIGN IN TO PROTECTIVE CUSTODY BECAUSE THE ALLEGATIONS AGAINST ME ARE FALSE. SINCE I BEEN HERE I HAVE NOT BEEN ABLE TO EVEN COMB MY HAIR, I WAS NOT ALLOWED TO CHANGE INTO MY COURT CLOTHES. I'VE ACCUMULATED 4 SKINNED OUT FROM STRESS AND LOSS OF WEIGHT. IT HAS BEEN MY PERSONAL EXPERIENCE THAT PEOPLE BLAME ME FOR THINGS THAT I DID NOT DO, BUT STILL I GET PUNISHED. ESPECIALLY IF I STAND UP FOR MY RIGHTS, AS I WISH TO BE HEARD IN TRIAL BUT I FACE THE DEATH PENALTY AND THE LIFE OF LIFE WITHOUT PAROLE IS UNFAIR TOO. MY I.D. BRACKET SAYS I'M A WHITE MALE AND I'M A CAPITAL DEFENDANT IS THAT A UNACCEPTABLE MISTAKE OR IS IT?

I'VE BEEN HAVING A REALLY HARD TIME HERE. MY FATHER CANNOT GET IN TO VISIT ME BECAUSE THE VISITATION POLICIES IS MISMANAGED. I'VE SEEN MY SON NEARLY 30 YEARS OF <sup>HAVE</sup> HIS YOUNG LIFE; I WISH TO VISIT WITH HIM <sup>MY</sup> I LEAVE TO LIVE THE REST OF MY LIFE IN THIS POSITION.

My Defense team has been very slowly support I've had. They been my friends. My change in life to succumb to life in prison has been overwhelming to me. I haven't even experienced the long term effect it will have on me and my son.

I just wish to be heard of the injustices that I've experienced. Pleading guilty was very hard for me to do, it is still taking me a long time for me to agree with the guilty plea. I pled guilty in 2001 in EAST SYRACUSE, I appealed before 50 days and SCOTT CAREY did not file my appeal like I requested for her to do. She also charged me \$50 for my case paperwork. To this day I have not seen accusatory instrument. I also had over \$600 when I was arrested for this case. THE U.S. MARSHAL was the arresting officers and my money was never returned to me.

I Desperately look for answers. I'm still learning and making mistakes. I'm sorry for inconvenience to you and my ATTORNEYS. Disregarding my request to take back my guilty plea is my request. I'm very positive Pleading guilty is what I want to do.

Sincerely yours

Darrell C.