

## **SAMPLE BRIEF!**

**Case Citation:** People v. Neulander, 34 N.Y.3d 110 (2019).

**Procedural History:** Jury in County Court, Onondaga County, convicted defendant of murder. Defendant moved pursuant to CPL 330.30 to set aside verdict based on juror misconduct. Trial court determined that misconduct occurred, but did not render trial unfair. Motion denied. Appellate Division reversed and granted new trial. People appealed.

**Statement of Facts:** In April 2015, trial jury convicted defendant of murdering his wife. Trial court had repeatedly instructed jurors not to discuss case with anyone. After verdict, defendant moved to set aside verdict, and in fact-finding hearing, trial court learned that one juror ("Juror 12") had sent and received hundreds of text messages and accessed local media websites about the trial, while trial was ongoing. Juror 12 also lied under oath about her conduct, and doctored and/or deleted text messages and her internet browsing history.

**Issue(s)/Question(s) Presented:** Whether juror's sending and receiving hundreds of text messages, accessing extensive internet coverage during trial, then lying to the court and People about it, warrants reversal of murder conviction?

**Holding/Rule of Law:** Yes. Juror's sending and receiving of hundreds of text messages and accessing extensive internet coverage about the trial, and lying to the court and the People about it, was so egregious that it may have affected defendant's right to trial by an impartial jury. Thus reversal was warranted.

**Reasoning/Rationale/Analysis:** Under CPL 330.30, a verdict should be set aside if "improper conduct by a juror . . . may have affected a substantial right of the defendant and . . . was not known to the defendant prior to the rendition of the verdict." 34 N.Y.3d at 113. Juror 12's misconduct was so extreme, and her deception of the court and the People so egregious, that it may have affected defendant's right to trial by an impartial jury. Court rejected People's argument that "substantial proof of guilt" outweighed effect of misconduct. Id. at 115. Rather, the right to a fair trial is so important that "proof of guilt, however overwhelming, can never be permitted to negate" it. Id. (quoting People v. Crimmins, 36 N.Y.2d 230, 238 (1975)). Reversal was also necessary "to ensure the public's confidence in the fairness of trials." Id.

**Disposition:** Appellate Division's order setting aside guilty verdict affirmed. Defendant entitled to new trial.