



*State of New York
Court of Appeals*

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COURT OF APPEALS NEW FILINGS

Preliminary Appeal Statements processed
by the Court of Appeals Clerk's Office

December 23, 2022 through December 29, 2022

Each week the Clerk's Office prepares a list of recently-filed appeals, indicating short title, jurisdictional predicate, subject matter and key issues. Some of these appeals may not reach decision on the merits because of dismissal, on motion or sua sponte, or because the parties stipulate to withdrawal. Some appeals may be selected for review pursuant to the alternative procedure of Rule 500.11. For those appeals that proceed to briefing in the normal course, the briefing schedule generally will be: appellant's brief to be filed within 60 days after the appeal was taken; respondent's brief to be filed within 45 days after the due date for the filing of appellant's brief; and a reply brief, if any, to be filed within 15 days after the due date for the filing of respondent's brief.

The Court welcomes motions for amicus curiae participation from those qualified and interested in the subject matter of these newly filed appeals. Please refer to Rule 500.23 and direct any questions to the Clerk's Office.

PEOPLE v DANIEL BRADFORD:

4th Dept. App. Div. order of 4/29/22; affirmance; leave to appeal granted by Lindley, J., 12/5/22; Rule 500.11 review pending;

Crimes—Right to Counsel—Effective Representation—Whether trial counsel was ineffective for failing to object to defendant being forced to wear stun belt during trial;

Supreme Court, Steuben County, denied defendant's CPL 440.10 motion; App. Div. affirmed.

PEOPLE v JORGE ESPINOSA:

2nd Dept. App. Div. order of 7/20/22; affirmance; leave to appeal granted by Rivera, J., 11/3/22; Rule 500.11 review pending;

Crimes—Right to Counsel—Effective Representation—Whether trial counsel was

ineffective for failing to object on Confrontation Clause grounds to the admission of DNA evidence through a criminalist who did not perform the DNA testing; Supreme Court, Queens County, convicted defendant, upon a jury verdict, of burglary in the second degree, possession of a burglar's tools, and criminal mischief in the fourth degree, and imposed sentence; App. Div. affirmed.

PEOPLE v GEORGE GARCIA:

1st Dept. App. Div. order of 5/3/22; affirmance; leave to appeal granted by Wilson, J., 12/9/22;

Crimes—Possession of Weapon—Whether Penal Law § 265.03 (3), criminalizing possession of a firearm in public places, and Penal Law § 265.03 (1) (b), criminalizing possession of a firearm with the intent to use it unlawfully, are unconstitutional under *New York State Rifle & Pistol Assoc. v Bruen* (597 US —, 142 S Ct 2111 [2022]); whether defendant's sentence is unconstitutional under *Bruen* because Penal Law § 265.03 (3) distinguishes between public possession and possession in the home; whether defendant's sentence was cruel and unusual; Supreme Court, New York County, convicted defendant, after a jury trial, of criminal possession of a weapon in the second degree (two counts), and sentenced him to concurrent terms of 3 ½ years; Supreme Court, New York County, denied defendant's 440.20 motion to set aside his sentence; App. Div. affirmed.