

COURT OF APPEALS NEW FILINGS

Preliminary Appeal Statements processed
by the Court of Appeals Clerk's Office
March 13 through March 19, 2009

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.

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.

HILTS (WILLIAM), PEOPLE v:

3RD Dept. App. Div. order of 12/6/07; affirmance; leave to appeal granted by Jones, J., 5/12/08;

CRIMES AND CRIMINAL PROCEDURE - WITNESSES - USE OF PRIOR TESTIMONY - CPL 670.10 - PEOPLE'S DUE DILIGENCE IN PRODUCING CONFIDENTIAL INFORMATION FOR DEFENDANT'S SECOND TRIAL; RIGHT TO REPRESENTATION PRO SE - ALLEGED ERROR IN LIMITING ROLE OF STANDBY COUNSEL; ALLEGED ERROR IN NON-DISCLOSURE OF EXISTENCE OF APPARENT PROMISE OF BENEFIT MADE BY DISTRICT ATTORNEY TO CHIEF WITNESS AGAINST DEFENDANT; ALLEGED IMPROPER ADMISSION INTO EVIDENCE OF HEARSAY AND BOLSTERING TESTIMONY;

Schenectady County Court convicted defendant of criminal sale of a controlled substance in the third degree and criminal possession of a controlled substance in the third degree; App. Div. affirmed.

KONSTANTINIDES (GEORGE), PEOPLE v:

2ND Dept. App. Div. order of 10/14/08; affirmance; leave to appeal granted by Smith, J., 2/27/09;
CRIMES AND CRIMINAL PROCEDURE - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DENIED THE EFFECTIVE ASSISTANCE OF COUNSEL BASED UPON A CONFLICT OF INTEREST; DEFENDANT'S ENTITLEMENT TO A HEARING PURSUANT TO CPL 400.21(5); Supreme Court, Queens County convicted defendant of criminal possession of a weapon in the second degree and criminal possession of a weapon in the third degree, upon a jury verdict, and imposed sentence; App. Div. affirmed.

MCDANIEL (JERMAR), PEOPLE v:

1ST Dept. App. Div. order of 9/9/08; affirmance; leave to appeal granted by Catterson, J., 3/10/09; Rule 500.11 review pending;
CRIMES AND CRIMINAL PROCEDURE - ROBBERY - FIRST DEGREE ROBBERY - WHAT CONSTITUTES "DISPLAY" OF FIREARM - EFFECTIVE ASSISTANCE OF COUNSEL;
Supreme Court, Bronx County convicted defendant, after a jury trial, of robbery in the first degree and sentenced him, as a persistent violent felony offender, to a term of 20 years to life; thereafter, the same court denied defendant's CPL 440.10 motion to vacate the judgment; App. Div. affirmed.

RIBACK (PHILLIP), PEOPLE v:

3RD Dept. App. Div. order of 12/24/08; modification and affirmance; leave to appeal granted by Malone, J., 3/2/09;
CRIMES AND CRIMINAL PROCEDURE - ARGUMENT AND CONDUCT OF COUNSEL - ARGUMENT THAT PROSECUTOR'S SUMMATION DENIED DEFENDANT A FAIR TRIAL;
Albany County Court convicted defendant, upon a verdict, of sodomy in the first degree, sexual abuse in the first degree (nine counts), course of sexual conduct against a child in the second degree (two counts), endangering the welfare of a child (11 counts), forcible touching (two counts), sexual abuse in the second degree (two counts) and sexual abuse in the third degree; thereafter, the same court denied defendant's CPL 440.10 motion to vacate the judgment of conviction; App. Div. modified the judgment, as a matter of discretion and in the interest of justice, by reversing so much thereof as imposed an aggregate prison term of 48 years and resentencing defendant to an aggregate prison term of 20 years, affirmed the judgment as so modified and affirmed the order.