



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

February 14, 2025 through February 20, 2025

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.

MATTER OF CLAIM OF CARMODY:

APL-2025-00009

3rd Dept. App. Div. order of 6/27/24; affirmance; leave to appeal granted by the Court of Appeals, 1/9/25; Rule 500.11 review pending;

Unemployment Insurance—Benefits—Whether the tribunals below erred in finding that appellant was required to be totally unemployed in order to be eligible for Pandemic Unemployment Assistance under the CARES Act; whether the tribunals below erred in holding that a “willful misrepresentation” penalty could be assessed based on statements which were unintentional and/or the product of confusion;

App. Div. affirmed decision of the Unemployment Insurance Appeal Board, filed February 8, 2023, which ruled, among other things, that claimant was ineligible to receive unemployment insurance benefits because he was not totally employed.

ESCOBAR v SEGUNDA IGLESIA:

APL-2025-00040

2nd Dept. App. Div. order of 11/14/24: affirmance; sua sponte examination of whether the order appealed from finally determines the action and whether a substantial constitutional question is directly involved in the Appellate Division order;

Constitutional Law—First Amendment Rights—Whether court had subject matter jurisdiction over sex abuse victim's action against religious organizations;

Supreme Court, Westchester County, in an action, among other things, for personal injuries, denied those branches of certain defendants' motion which were pursuant to CPLR 3211(a) to dismiss the causes of action alleging negligence and negligent hiring, retention, and supervision insofar as asserted against them.

GURBANOVA v CITY OF ITHACA:

APL-2025-00038

3rd Dept. App. Div. order of 1/16/25; affirmance;

Municipal Corporations—Whether the City's prior written notice statute applied to bar plaintiff's recovery when plaintiff's injuries were caused by a falling parking bollard; whether plaintiff's expert witness affirmation failed to raise a triable issue of fact; whether the burden was properly shifted to plaintiff on whether the bollard was properly installed; whether plaintiff was required to show that the dangerous condition of the bollard was "immediately apparent" when it was installed;

Supreme Court, Tompkins County, among other things, granted a motion by defendants City of Ithaca and Ithaca Youth Bureau for summary judgment dismissing the complaint as against them; App. Div., with two Justices dissenting, affirmed.

MATTER OF JENSEN:

APL-2025-00022

3rd Dept. App. Div. order of 12/12/24; affirmance; Rule 500.11 review pending;

Unemployment Insurance—Whether substantial evidence supports the UIAB's determination that claimant received a reasonable assurance of reemployment;

App. Div., with two Justices dissenting, affirmed a decision of the Unemployment Insurance Appeal Board, filed June 2, 2022, which, upon reopening and reconsideration, ruled that claimant was ineligible to receive unemployment insurance benefits.

PEOPLE ex. rel LOUIS M. v POPIEL:

APL-2025-00043

1st Dept. App. Div. order of 1/7/25; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved in the Appellate Division order;

Habeas Corpus—When remedy available—whether habeas properly denied where petitioner challenged only conditions of confinement and did not seek immediate release;

Supreme Court, Bronx County, denied the petition for a writ of habeas corpus and dismissed the proceeding; App. Div. affirmed.

PEOPLE v MOORE (JAQUAN):

APL-2025-00032

4th Dept. App. Div. order of 7/26/24; reversal; leave to appeal granted by Wilson, Ch. J., 1/29/25;

Appeal—Court of Appeals—Whether CPL 450.90(1) permits a defendant to appeal to the Court of Appeals from an Appellate Division order reversing the judgment of conviction and remitting for a new trial; whether an order denying suppression should be considered "an order appealed from" under CPL 450.90(1); whether a warrantless arrest is unreasonable when one law enforcement agency misleads another into believing that there is an arrest warrant when requesting that the other agency conduct an arrest on its behalf;

County Court, Monroe County, convicted defendant upon a jury verdict of murder in the second degree and criminal possession of a weapon in the second degree (two counts); App. Div. reversed and granted a new trial on counts 1, 2, and 3 of the indictment.

PEOPLE v WOODS (TRAVIS):

APL-2025-00033

1st Dept. App. Div. order of 4/25/24; affirmance; leave to appeal granted by Wilson, Ch. J., 1/29/25;

Crimes—Right to Speedy Trial—Whether the State violated the speedy-trial right (US Const amend. 6; NY Const art I § 6) by delaying—after three trials resulting in deadlocked juries—the fourth trial by more than three years; Crimes—Right to Counsel—Effective Representation—Whether fourth-trial counsel was ineffective under the state and federal constitutions in, among other things, failing to object to identification and prior-bad-act evidence; whether CPL 310.30, which requires notice of a deliberating jury's request for "the content or substance of any trial evidence" or "any other matter pertinent to the jury's consideration of the case," requires notice of a jury's request for a prosecution trial exhibit, whether prejudice is presumed under *Molina-Martinez v United States*, 578 US 189 (2016); whether the Appellate Division erred in holding that the first trial court's failure to provide notice of substantive jury notes was harmless;

Supreme Court, New York County, convicted defendant, after the first of two separate jury trials, of conspiracy in the fourth degree, criminal sale of a controlled substance in or near school grounds, and criminal sale of a controlled substance in the fourth degree, and sentenced him, as a second felony offender, to an aggregate term of 9 years and also convicted him, after the second trial, of murder in the second degree and criminal possession of a weapon in the second and third degrees, and sentenced him, as a second felony offender, to an aggregate term of 25 years to life.