



State of New York
Court of Appeals

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3/3/25

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COURT OF APPEALS NEW FILINGS

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

February 21, 2025 through February 27, 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.

PEOPLE v RIOS (JONATHAN):

APL-2025-00037

4th Dept. App. Div. order of 3/22/24; affirmance; leave to appeal granted by Halligan, J., 2/7/25;

Crimes—Plea of Guilty—Whether the People v Lopez (71 NY2d 662 [1988]) exception to the preservation rule can be triggered by post-allocation statements made at sentencing which call into question the voluntariness of the guilty plea or negate an element of the offense;

County Court, Monroe County, convicted defendant upon his plea of guilty of robbery in the second degree; App. Div. affirmed.

MATTERS OF MEKAYLA S. and GABRIEL H.:

APL-2025-00011

4th Dept. App. Div. orders of 7/3/24; affirmance; leave to appeal granted by the Court of Appeals, 1/9/25;

Parent and Child—Abused or Neglected Child—Whether videos allegedly depicting mother's boyfriend sexually abusing mother's daughter were sufficiently authenticated and therefore admissible in child-protective proceedings brought against mother; whether Family Court erred in finding mother abused daughter based on evidence that mother knew or should have known about sexual abuse and did nothing to prevent it; whether derivative-abuse finding as to mother's son was supported by record evidence;

Family Court, Erie County, in a proceeding pursuant to Family Court Act article 10, among other things, determined that respondent abused the subject child; Family Court, Erie County, in a proceeding pursuant to Family Court Act article 10, among other things, determined that respondent derivatively abused the subject child; App. Div., with one Justice dissenting, affirmed.

SCALETТА v MICHEL'S POWER:

APL-2025-00047

3rd Dept. App. Div. order of 1/16/25; affirmance; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution;

Aviation—Federal Preemption—Whether claims under New York Labor Law and for common law negligence are field or conflict preempted by Federal Aviation Act and Federal Aviation Regulations when those claims arise out of the crash of an in-flight helicopter where a helicopter lineman is working on towers and power lines from a platform attached to a helicopter;

Supreme Court, Sullivan County, denied defendants' motion to dismiss the complaint; App. Div., with two Justices dissenting, affirmed.