



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

May 9, 2025 through May 15, 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 BENDER (DONALD):

APL-2025-00087

3rd Dept. App. Div. order of 3/20/25; affirmance; leave to appeal granted by Clark, J., 4/30/25;

Crimes—Reckless Endangerment—Whether defendant's conviction of reckless endangerment in the first degree is supported by legally sufficient evidence, including proof that defendant acted with depraved indifference to human life; Whether the conviction may be reduced to reckless endangerment in the second degree and remitted for resentencing as a lesser included crime if there is legally insufficient evidence to support the first-degree conviction and defendant did not

request the charge; whether the trial court erred by prohibiting defendant from offering certain psychiatric evidence;

County Court, Albany County, upon a jury verdict, convicted defendant of the crime of reckless endangerment in the first degree; County Court, Albany County, denied defendant's motion under CPL 440.10 to vacate the judgment of conviction, without a hearing; App. Div., with one Justice concurring in part and dissenting in part, affirmed.

PEOPLE v CURRY (EUGENE):

APL-2025-00076

4th Dept. App. Div. order of 12/20/24; affirmance; leave to appeal granted by Singas, J., 4/22/25;

Crimes—Sentence—Whether in the absence of a written declaration of delinquency under CPL 410.30, an admission to a violation of probation tolls the probationary period under Penal Law § 65.15 (2) such that a court has jurisdiction to revoke the term of probation and resentence a defendant under CPL 410.70 (5) after the probationary period has elapsed; whether counsel was ineffective for failing to object to resentencing;

County Court, Monroe County, revoked defendant's sentence of probation and imposed a sentence of incarceration; App. Div. affirmed.

DEWALD v DEWALD:

APL-2025-00089

1st Dept. App. Div. order of 1/14/25; affirmance; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution and whether a substantial constitutional question is directly involved in the order appealed from;

Husband and Wife and Other Domestic Relationships—Whether defendant husband's motion to transfer the determination of the spousal support issue to Family Court was properly denied; whether any basis exists for disturbing Supreme Court's award of temporary maintenance;

Supreme Court, New York County, granted, in part, defendant husband's motion for pendente lite spousal maintenance to the extent of awarding him \$750 per month for a 12-month period, retroactive to January 5, 2024; Supreme Court, New York County, denied defendant husband's motion to transfer the determination of the spousal support issue to Family Court and ordered him to discontinue without prejudice his pending Family Court action; App. Div. affirmed both orders.

GRAYSON v NYS SUPREME COURT:

APL-2025-00090

2nd Dept. App. Div. order of 4/16/25; declined to sign order to show cause; sua sponte examination of whether an appeal lies to this Court from the decision of an individual Justice of the Appellate Division not to sign a proposed Order to Show Cause;

Motions and Orders—Order to Show Cause;

App. Div. declined to sign order to show cause.

KOLLI v KALEIDA HEALTH:

APL-2025-00085

4th Dept. App. Div. order of 7/26/24; modification; leave to appeal granted by the

Appellate Division, 4/25/25;

Insurance—Excess Coverage—Whether the courts below properly determined that decedent was entitled to coverage under defendant/third-party plaintiff Kaleida’s self-insurance plan;

Supreme Court, Niagara County, in a declaratory judgment action, among other things, granted the motions of third party defendant and plaintiffs for summary judgment; App. Div. modified the judgment by denying the motion of third-party defendant, denying in part the motion of plaintiffs, vacating the declaration with respect to the allocation of the settlement amount, vacating the sixth decretal paragraph, reinstating the first counterclaim of defendant/thirdparty plaintiff, reinstating the third-party action, granting in part the motion of defendant/third-party plaintiff, granting judgment in favor of defendant/third-party plaintiff by declaring that defendant/third-party plaintiff and third-party defendant are excess insurers and plaintiff MLMIC Insurance Company is the primary insurer and that defendant/third-party plaintiff and third-party defendant are obligated to pay on a pro rata basis the costs of the remaining portion of the settlement following exhaustion of MLMIC’s primary coverage, and as so modified, affirmed.

ONONDAGA COUNTY v SNY:

APL-2025-00088

4th Dept. App. Div. order of 5/7/25; reversal;

Statutes—Whether chapter 741 of the Laws of 2023, known as the Even Year Election Law, violates the New York Constitution or the United States Constitution;

Supreme Court, Onondaga County, denied motions to dismiss brought by the State Defendants and Defendant Czarny, declared that the Even Year Election Law is void as violative of the New York State Constitution, declared that various county charter, local law, and code provisions providing for odd year elections (Onondaga, Oneida, Nassau, Rensselaer, Suffolk, Rockland, Orange, and Dutchess counties) fall within the Savings Clause of Article IX of the New York State Constitution and are valid notwithstanding the enactment of the Even Year Election Law, and enjoining defendants State of New York, Governor Hochul, Commissioner Czarny, and Commissioner Sardo, their agents, and anyone acting on their behalf, from enforcing or implementing the Even Year Election Law; App. Div. reversed, granted motions, vacated decretal paragraphs, granted judgment in favor of defendants State of New York, Kathleen Hochul, in her capacity of Governor of the State of New York, and Dustin M. Czaryn, in his capacity as Commissioner of Onondaga County Board of Elections, and declared that chapter 741 of the Laws of 2023 does not violate the New York Constitution or the United States Constitution.

MATTER OF STORA v BOARD OF ELECTIONS:

APL-2025-00092

2nd Dept. App. Div. order of 5/13/25; affirmance; sua sponte examination of whether there is any jurisdictional basis for an appeal as of right;

Elections—Designating Petitions;

Supreme Court, Kings County, denied Election Law 16-102 petition to validate

designating petition; App. Div. affirmed.

PEOPLE v TYSON (KENNETH):

APL-2025-00075

4th Dept. App. Div. order of 1/31/25; affirmance; leave to appeal granted by Curran, J., 4/10/25;

Crimes—Right to Speedy Trial—Whether County Court properly granted defendant’s motion to dismiss indictment charging him with aggravated harassment of an employee by an incarcerated individual on the ground that he was denied his constitutional right of due process as a result of preindictment delay;

County Court, Erie County, granted defendant’s motion to dismiss the indictment; App. Div. affirmed.