



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

June 27, 2025 through July 3, 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 CARNEGIE (ELIJAH):

APL-2025-00118

2nd Dept. App. Div. order of 12/18/24; affirmance; leave to appeal granted by the Court of Appeals, 6/17/25;

Crimes—Sex Offenders—Sex Offender Registration Act—Whether defendant's age at the time of offense was adequately taken into account by the guidelines such that it did not constitute a mitigating circumstance for purposes of the downward departure request; whether proffered grounds for downward departure—including family support—were adequately taken into account by the guidelines such that they did not constitute mitigating circumstances;

Supreme Court, Kings County, after a hearing, designated defendant a level two sex offender pursuant to Correction Law article 6–C; App. Div. affirmed.

PEOPLE v DOCKERY (ANTHONY):

APL-2025-00117

2nd Dept. App. Div. order of 12/11/24; affirmance; leave to appeal granted by the Court of Appeals, 6/17/25;

Crimes—Sex Offenders—Sex Offender Registration Act—Whether defendant’s age at the time of offense was adequately taken into account by the guidelines such that it did not constitute a mitigating circumstance for purposes of the downward departure request; whether Supreme Court was required to consider the potential application of the Sexual Assault Reform Act residency restrictions in connection with defendant’s request for a downward departure;

Supreme Court, Kings County, after a hearing, designated defendant a level three sex offender pursuant to Correction Law article 6-C; App. Div. affirmed.

PEOPLE v GREEN (HIKEEM):

APL-2025-00119

2nd Dept. App. Div. order of 7/31/24; affirmance; leave to appeal granted by the Court of Appeals, 6/17/25;

Crimes—Sex Offenders—Sex Offender Registration Act—Whether proffered grounds for downward departure—including employment, a family support network, and completion of sex offender treatment—were adequately taken into account by the guidelines such that they did not constitute mitigating circumstances;

Supreme Court, Queens County, after a hearing upon remittitur from the Appellate Division (see *People v Green*, 216 AD3d 1115 [2d Dept 2023]), designated defendant a level three sex offender pursuant to Correction Law article 6–C.

PEOPLE v KHIAMDAVANH (KHAM):

APL-2025-00114

4th Dept. App. Div. order of 1/31/25; affirmance; leave to appeal granted by Rivera, J., 6/2/25;

Crimes—Witnesses—Failure to Call Witness—Missing Witness Charge—Whether the trial court erred in refusing to give a missing witness charge on the basis that the witness’s testimony would have been cumulative; Crimes—Justification—Whether the trial court erred by instructing the jury on the initial aggressor exception to the justification defense;

County Court, Oneida County, convicted defendant upon a jury verdict of attempted murder in the second degree (Penal Law §§ 110.00, 125.25 [1]), assault in the first degree (§120.10 [1]), and criminal possession of a weapon in the second degree (§265.03[3]); App. Div. affirmed.

PEOPLE v PAMPERIEN (GARY):

APL-2025-00121

2nd Dept. App. Div. order of 10/16/24; affirmance; leave to appeal granted by the Court of Appeals, 6/17/25; Rule 500.11 review pending;

Crimes—Sex Offenders—Sex Offender Registration Act—Whether defendant was correctly assessed points pursuant to risk factors 3 (number of victims) and 7

(relationship to victims) in connection with his conviction for possession of child pornography; whether defendant was properly designated a sexually violent offender; whether County Court erred by denying defendant’s application for a downward departure;

County Court, Suffolk County, after a hearing, designated defendant a level two sexually violent offender pursuant to Correction Law article 6–C; App. Div. affirmed.

PEOPLE v TOWNSEND (KENNETH):

APL-2025-00120

1st Dept. App. Div. order of 12/17/24; affirmance; leave to appeal granted by the Court of Appeals, 6/17/25;

Crimes—Sex Offenders—Sex Offender Registration Act—Whether defendant’s prior criminal history was adequately taken into account by the guidelines such that it could not constitute an aggravating factor for purposes of the People’s upward departure request;

Supreme Court, New York County, adjudicated defendant a level two sexually violent and predicate sex offender pursuant to the Sex Offender Registration Act (Correction Law art 6–C); App. Div. affirmed.

U.S. BANK NATIONAL ASSOCIATION v MAVE HOTEL INVESTORS:

APL-2025-00129

1st Dept. App. Div. order of 4/10/25; modification; leave to appeal granted by the Appellate Division on a certified question, 6/24/25;

Mortgages—Foreclosure—Whether the complaint should be dismissed under Real Property Actions and Proceedings Law section 1301(3) on the ground that plaintiff impermissibly commenced a second cause of action to collect a mortgage debt; whether the first, third, and fourth causes of action should be dismissed on the ground that plaintiff is not entitled to the collection of “rents” because it has not taken possession of the mortgaged property; whether the fifth cause of action should be dismissed on the ground that claims of tortious conduct cannot be based upon alleged breaches of contractual duties;

Supreme Court, New York County, among other things, denied defendants’ motion to dismiss the complaint; App. Div., with one Justice dissenting, to the extent appealed from as limited by the briefs, modified by dismissing the sixth cause of action for declaratory judgment, and otherwise affirmed.