



*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 24, 2023 through March 2, 2023

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.

BAQUE (JORGE), PEOPLE v:

2nd Dept. App. Div. order of 11/23/23; affirmance; leave to appeal granted by Rivera, J., 2/17/23;

Crimes—Evidence—Whether Appellate Division applied the proper standard in addressing defendant's claim that verdict of guilt was against the weight of the evidence; application of "moral certainty" standard;

Supreme Court, Queens County, convicted defendant, upon a jury verdict, of criminally negligent homicide and endangering the welfare of a child, and imposed sentence; App. Div. affirmed.

GRAHAM v STATE OF NEW YORK:

3rd Dept. App. Div. order of 1/12/23; 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 to support an appeal as of right;

Motions and Orders—Whether the courts below properly denied claimant's motion to vacate a prior order; alleged constitutional violations;

Court of Claims, denied motion to vacate a prior order; App. Div. affirmed.

LAVINE v STATE OF NEW YORK:

Supreme Court, Onondaga County order of 2/9/23; granted judgment; sua sponte examination of whether a direct appeal lies under 5601(b)(2);

Constitutional Law—Whether the court properly declared that Executive Law § 94 is constitutional and that it was proper for the Independent Review Committee to reject or approve nominees in accordance with the provisions of Executive Law § 94;

Supreme Court, Onondaga County, granted defendants judgment declaring that Executive Law § 94 is constitutional and that it was proper for the Independent Review Committee to reject or approve nominees in accordance with the provisions of Executive Law § 94, and dismissing plaintiffs' cause of action seeking preliminary and/or injunctive relief.