



*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

March 22, 2024 through March 28, 2024

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.

NELLENBACK v MADISON COUNTY:

3rd Dept. App. Div. order of 1/11/24; affirmance;

Judgments—Summary Judgment—Whether summary judgment was properly granted in defendant's favor dismissing plaintiff's negligent supervision claim; Supreme Court, Madison County, granted defendant's motion for summary judgment dismissing the complaint; App. Div., with two Justices dissenting, affirmed.

THOMPSON v STATE OF NEW YORK:

3rd Dept. App. Div. order of 1/5/24; denied motion; sua sponte examination of whether the order appealed from finally determines the proceeding within the meaning of the Constitution and whether any jurisdictional basis exists for an appeal as of right;

Motions and Orders—Vacatur of Order;

App. Div. denied motion to vacate dismissal of the appeal.

PEOPLE v BRENDA WW.:

3rd Dept. App. Div. order of 12/21/23; modification; leave to appeal granted by Pritzker, J., 2/20/24;

Crimes—Sentence—Whether defendant established entitlement to resentencing under the Domestic Violence Survivors Justice Act (See CPL 440.47; Penal Law § 60.12);

County Court, Madison County, denied defendant's motion for resentencing pursuant to CPL 440.47; App. Div. with two Justices dissenting, modified by reducing the sentence imposed on the conviction of manslaughter in the first degree to a prison term of eight years to be followed by five years of postrelease supervision, the sentence imposed for assault in the first degree to a prison term of eight years to be followed by five years of postrelease supervision, and the sentence imposed for criminal possession of a weapon in the third degree to a prison term of two years, which sentences shall run concurrently; remitted the matter to County Court for further proceedings pursuant to CPL 470.45; and, as so modified, affirmed.

PEOPLE v WATKINS (JERRY):

4th Dept. App. Div. order of 11/17/23; affirmance; leave to appeal granted by Nowak, J., 2/29/24;

Crimes—Unlawful Search and Seizure—Whether the courts below should have suppressed the loaded firearm that defendant was charged with possessing because police officers unlawfully pursued and arrested him; whether defendant's contentions are preserved; whether the people failed to establish a lawful predicate for the frisk or search of defendant by failing to call the officer who found the firearm;

Supreme Court, Monroe County, convicted defendant upon a plea of guilty of criminal possession of a weapon in the second degree; App. Div., with two Justices dissenting, affirmed.