

CASE ISSUE STATEMENTS- JANUARY 2025

The calendar is subject to change. Please contact the Clerk's Office for any updated information.

If available, briefs, records and appendices can be viewed and downloaded from the Court of Appeal Public Access and Search System (Court-PASS), which is accessible from the home page on the Court's website.

TUESDAY, JANUARY 7

Cuomo v New York State Commn. on Ethics and Lobbying in Govt (No. 1)

APL-2024-00076

Constitutional Law—Separation of Powers—Whether Executive Law § 94 (10) and (14) violate the New York State Constitution’s separation-of-powers principle.

Behler v Tao (No. 4)

APL-2024-00041

Contracts—Breach or Performance of Contract—Whether oral exit opportunity agreement between plaintiff investor and defendant, controlling member of LLC, was superseded by amended LLC agreement entered into unilaterally by defendant; Promissory Estoppel—Whether plaintiff sufficiently pleaded cause of action for promissory estoppel.

People v Howard (Charles) (No. 5)

APL-2024-00022

Crimes—Robbery—Whether the evidence was legally insufficient to prove defendant’s guilt of robbery beyond a reasonable doubt when the sole evidence that defendant committed robbery, rather than larceny, was the trial testimony of the complainant, which was contradicted by the statement the complainant gave to the police of the day of the crime; whether the People proved beyond a reasonable doubt that defendant intentionally threatened the use of force to compel to complainant to deliver up his property.

WEDNESDAY, JANUARY 8

Matter of Oceanview v Zucker (No. 6)

APL-2024-00056

Health—Adult Care Facilities—Whether Department of Health regulations capping admissions on transitional adult homes for persons with serious mental illness violate the Fair Housing Act; whether challenges to facially discriminatory laws under the FHA are subject to a government interests means-ends balancing test or instead are governed by the Fair Housing Act text and its preemption provision; whether narrow-tailoring under the FHA requires that the challenged actions be the least discriminatory means of achieving the purported interests; whether the “benign discrimination” exception to the FHA, to the extent such an exception exists, requires more than a showing of benefits that outweigh burdens on a protected class; whether such an exception exists.

Weisbrod-Moore v Cayuga County (No. 7)

APL-2024-00063

Municipal Corporations—Tort Liability—Whether plaintiff, who was abused as a child while in foster care, failed to allege existence of special duty that would subject municipal defendant to tort liability.

People v Fredericks (Divine) (No. 8)

APL-2023-000195

Crimes—Right to Counsel—Whether the trial court properly denied defendant’s request for new counsel; whether the trial court was required to inquire further concerning defendant’s request; whether counsel improperly took a position adverse to his client in opposing defendant’s request; whether defendant’s CPL 440.10 motion was properly denied without a hearing; whether defendant received effective assistance of counsel.

People v Hernandez (Mitchell) (No. 9)

APL-2023-00120

Crimes—Sentence— Whether the courts below correctly adjudicated defendant a persistent violent felony offender under Penal Law 70.04(1)(b)(iv)-(v) when more than ten years without incarceration elapsed between his sentencing on the first predicate felony conviction and the incident underlying this case but the period of pre-sentencing incarceration on the predicate felony was subtracted from that ten-year period.

People v Williams (Raymond) (No. 10)

APL 2023-00112

Crimes—Burglary—Whether the evidence was legally sufficient to establish that defendant committed third-degree burglary.

THURSDAY, JANUARY 9

People v Santos (Juan M. Silva) (No. 11)

APL-2024-00018

Crimes—Plea of Guilty—Whether litigants are permitted to bargain away the Department of Corrections and Community Supervision’s Shock program; whether doing so contravenes statutory authority (Corrections Law § 867), the separation of powers doctrine, and public policy

Matter of NYP Holdings v NYPD (No. 12)

APL-2024-00057

Records—Freedom of Information Law—Whether the repeal of Civil Rights Law § 50-a, which previously exempted police disciplinary records from disclosure under the Freedom of Information Law, applies retroactively to records created prior to the repeal.

Matter of NYCLU v City of Rochester (No. 13)

APL-2023-00085

Records—Freedom of Information Law—Whether law enforcement records subject to public release under the Public Officers Law include complaints or internal investigations that are unsubstantiated; whether the release of such information constitutes an invasion of privacy.