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COURT OF APPEALS NEW FILINGS

Preliminary Appeal Statements processed
by the Court of Appeals Clerk's Office

**January 18 through January 24, 2019**

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.**

CARTER, MATTER OF v ANNUCCI:
3RD Dept. App. Div. judgment of 11/8/18; confirmed determination; sua sponte examination of whether a substantial constitutional question is directly involved to support an appeal as of right;
**Prisons and Prisoners--Discipline of Inmates--Prisoner charged with using a controlled substance--claimed due process violations in tier III disciplinary hearing;** Supreme Court, Ulster County, transferred proceeding to the App. Div.; App. Div. confirmed respondent's determination finding petitioner guilty of violating a prison disciplinary rule.

MALLOY (EDWARD) a/k/a EB, PEOPLE v:
3RD Dept. App. Div. order of 11/21/18; affirmance; leave to appeal granted by Clark, J., 1/10/19;
**Crimes--Selection of Jury--Batson Inquiry--Whether trial court erred in denying defendant's Batson challenge; whether trial court failed to make adequate record reflecting the basis for its denial of defendant's Batson challenge; Crimes—Verdict—Sufficiency of the Evidence—whether the verdict convicting defendant of murder in the second degree and criminal possession of a weapon is supported by legally sufficient evidence; Grand Jury—Defective Proceeding—whether integrity of grand jury was impaired; Right of Confrontation—whether defendant was denied his right to a fair trial when trial court refused to allow witness to take the stand solely for the purpose of invoking his privilege against self-incrimination in the presence of the jury; Sentencing—whether Supreme Court properly imposed consecutive sentences;**
Supreme Court, Albany County, convicted defendant of murder in the second degree and criminal possession of a weapon in the second degree; App. Div. affirmed.

STRIPLIN, MATTER OF v GRIFFIN:
2ND Dept. App. Div. judgment of 9/19/18; confirmed determination; sua sponte examination of whether a substantial constitutional question is directly involved to support an appeal as of right;
**Prisons and Prisoners--Discipline of Inmates--Prisoner charged with violating institutional rules concerning lewd conduct--claimed due process violations in tier II disciplinary hearing;**
Supreme Court, Dutchess County, transferred the proceeding to the App. Div.; App. Div. confirmed respondent's 2/2/17 determination finding petitioner guilty of violating Institutional Rules of conduct rule 101.20 (7 NYCRR 270.[B][2][iii]) and imposing penalties, denied the petition and dismissed the proceeding on the merits.