



*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 14, 2024 through June 20, 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.

PEOPLE v BACON (ZAVEARR):

APL-2024-00074

1st Dept. App. Div. order of 10/5/23; affirmance; leave to appeal granted by Rivera, J., 6/6/24;

Crimes—Appeal—Preservation of Issue for Appeal—Whether defendant's Confrontation Clause challenge was adequately preserved; whether statements made to police at scene of crime for purpose of compiling complaint report qualify as nontestimonial under ongoing emergency exception to the Confrontation Clause; Supreme Court, New York County, convicted defendant of robbery in the third degree and two counts of assault in the third degree, and imposed sentence; App. Div. affirmed.

CUOMO v NYS COMMISSION ON ETHICS:

APL-2024-00076

3rd Dept. App. Div. order of 5/9/24; affirmance; leave to appeal granted by the Appellate Division with certified question, 6/5/24;

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

Supreme Court, Albany County, inter alia, granted plaintiff’s motion seeking a declaration that Executive Law § 94 (10) and (14) are unconstitutional; App. Div. affirmed.

PEOPLE ex rel. DEFREITAS v TOULON:

APL-2024-00053

2nd Dept. App. Div. order of 4/17/24; dismissal; sua sponte examination of whether any jurisdictional basis exists for an appeal as of right;

Habeas Corpus—Whether the Appellate Division properly dismissed the application for a writ of habeas corpus to release Russell DeFreitas upon his own recognizance or to set a reasonable bail under CPL 30.30(2)(a); alleged constitutional violations;

App. Div. dismissed application for a writ of habeas corpus.

PEOPLE v ROBINSON (SAVION):

APL-2024-00073

1st Dept. App. Div. order of 11/9/23; affirmance; leave to appeal granted by Troutman, J., 6/6/24;

Crimes—Suppression Hearing—Whether the courts below erred in holding that an "investigatory questioning" exception to *Miranda v Arizona* authorized the police to question appellant for 30 minutes while he was handcuffed;

Supreme Court, New York County, convicted defendant of robbery in the third degree, and sentenced him, as a second felony offender, to a term of two to four years; App. Div. affirmed.