

COURT OF APPEALS NEW FILINGS

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

June 17, 2016 through June 23, 2016

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 ex rel. JEROME A. v PONTE:

Supreme Court, New York County judgment of 5/24/16; denial of request; sua sponte examination whether the order appealed from finally determines the proceeding within the meaning of the Constitution, whether the ex parte denial of a request to sign an order to show cause is an appealable paper and whether a direct appeal lies pursuant to CPLR 5601(b)(2);

HABEAS CORPUS - CHALLENGE TO JUDGMENT DENYING REQUEST FOR AN ORDER TO SHOW CAUSE FOR A WRIT OF HABEAS CORPUS WHERE THE BASIS FOR THE WRIT WAS THAT THE APPELLATE DIVISION ORDER REVERSING SUPREME COURT'S FINDING OF NO PROBABLE CAUSE RENDERED PETITIONER'S PRE-TRIAL DETENTION UNCONSTITUTIONAL AS APPLIED TO HIM IN THIS SEX OFFENDER MANAGEMENT AND TREATMENT ACT PROCEEDING UNDER ARTICLE 10 OF THE MENTAL HYGIENE LAW;

Supreme Court, New York County, after an evidentiary hearing, dismissed the State's petition for the civil management of respondent pursuant to article 10 of the Mental Hygiene Law; App. Div. reversed, reinstated the petition and remanded the matter for an article 10 trial; Supreme Court thereafter, denied petitioner's request for the court to sign an order to show cause for a writ of habeas corpus.

FRANCIS (EUGENE), PEOPLE v:

2ND Dept. App. Div. order of 10/21/15; affirmance; leave to appeal granted by Balkin, J., 2/9/16; Rule 500.11 review pending; CRIMES - INDICTMENT - DENIAL OF MOTION TO VACATE GUILTY PLEA - WHETHER SUPREME COURT EXCEEDED ITS POWER IN AMENDING ITS INITIAL DECISION TO DISMISS THE INDICTMENT IN ITS ENTIRETY AND DENYING SO MUCH OF DEFENDANT'S CPL 30.30 MOTION AS SOUGHT DISMISSAL OF COUNTS SEVEN, EIGHT AND NINE OF THE INDICTMENT ON SPEEDY TRIAL GROUNDS;

Supreme Court, Westchester County, convicted defendant, upon his guilty plea, of attempted burglary in the first degree and imposed sentence; App. Div. affirmed.