



*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 21, 2024 through June 27, 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.

BYRNES v SENATE of SNY:

APL-2024-00083

4th Dept. App. Div. order of 6/18/24; reversal; sua sponte examination of whether a substantial constitutional question is involved to support an appeal as of right; aggrievement;

Limitation of Actions—Whether the Appellate Division properly held that article XIX section 1 of the Constitution is procedural in nature and that, as such, appellants were required to commence the action under CPLR article 78 within four months of the adoption of the proposed amendment; whether the legislature violated article XIX section 1 of the constitution by voting on and adopting the proposed amendment prior to receipt of the Attorney General's opinion;

Supreme Court, Livingston County, granted the cross-motion of plaintiffs for summary judgment, declared that the New York State Legislature violated article XIX section 1 of

the New York State Constitution in adopting Senate Bill S.51002 and Assembly Bill A.41002, declared those bills null and void, ordered the proposed constitutional amendment to be removed from the ballot for the general election of November 5, 2024, and denied in part the motion for summary judgment of defendants Senate of the State of New York, Andrea Stewart-Cousins, as the president pro tempore and majority leader of the Senate, Assembly of the State of New York and Carl Heastie, as speaker of the Assembly; App. Div. reversed, denied cross-motion, vacated the declaration, granted the motion in its entirety, and dismissed the complaint against defendants Senate of the State of New York and Assembly of the State of New York.

MATTER OF GARCIA v DORAN:

APL-2024-00075

4th Dept. App. Div. order of 5/21/24; dismissal; sua sponte examination of whether any jurisdictional basis exists for an appeal as of right;

Proceeding Against Body or Officer—Dismissal;

App. Div. granted respondent's motion to dismiss the CPLR article 78 proceeding.

PEOPLE v T.P.:

APL-2024-00071

4th Dept. App. Div. order of 5/9/23; modification; leave to appeal granted by Cannataro, J., 5/29/24;

Crimes—Right to Counsel—Effective Representation—Whether defense counsel was ineffective for failing to request that the court include in its justification charge the “reputation evidence” addendum to the New York Model Criminal Jury Instruction, which would have permitted the jury to take into account the victim’s prior violent acts; whether counsel was ineffective in failing to object to statements made by prosecutor during summation;

Supreme Court, Erie County, convicted defendant of manslaughter in the first degree and imposed sentence; App. Div. modified, by reducing the sentence imposed to a determinate term of incarceration of four years and a period of postrelease supervision of 2 1/2 years, and, as so modified, affirmed the judgment and remitted the matter Supreme Court, Erie County, for proceedings pursuant to CPL 470.45.

MATTER OF RGRTA v STENSRUD:

APL-2024-00081

4th Dept. App. Div. order of 5/3/24; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved to support an appeal as of right;

Eminent Domain—Valuation—Whether court’s determination of the property value was based on a fair interpretation of the evidence; alleged constitutional violations;

Supreme Court, Monroe County, awarded respondents money damages; App. Div. affirmed.