



*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

July 28, 2023 through August 3, 2023

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 DIXON, (KERBET):

2nd Dept. App. Div. order of 12/28/22; affirmance, leave to appeal granted by Troutman, J., 7/18/23;

Crimes—Right to Representation Pro Se—Whether defendant's Sixth Amendment right to self-representation was violated by the People monitoring his trial-preparation calls from jail and using the communications for trial; whether defendant's decision to waive his right to counsel and proceed pro se was unequivocal, knowing, voluntary, and intelligent; whether defendant's pro se status should have been revoked at trial;

Supreme Court, Queens County, convicted defendant of course of sexual conduct against a child in the first degree, sexual abuse in the third degree, endangering the welfare of a child, promoting a sexual performance by a child (150 counts), and possessing a sexual performance by a child (150 counts), upon a jury verdict, and course of sexual conduct

against a child in the first degree, endangering the welfare of a child, and rape in the third degree (two counts), upon his plea of guilty, under indictment No. 498/12, and possessing a sexual performance by a child (334 counts) under indictment No. 54/13, upon a jury verdict, and imposed sentences; App. Div. affirmed.

PEOPLE v ESTRELLA (JONAIKI MARTINEZ):

1st Dept. App. Div. order of 3/9/23; modification; leave to appeal granted by Troutman, J., 7/18/23;

Crimes—Murder—Whether the evidence was legally sufficient to support defendant's conviction of murder in the first degree under Penal Law

125.27(1)(a)(x) based on the infliction of torture upon the victim;

Supreme Court, Bronx County, convicted defendant, after a jury trial, of murder in the first and second degrees, conspiracy in the second degree and gang assault in the second degree, and sentenced him to an aggregate term of life without parole; App. Div. modified to the extent of vacating defendant's conviction of first-degree murder, dismissing that count of the indictment, and remanding for resentencing on the remaining convictions, and otherwise affirmed.