State of New York
Court of Appeals

Vol. 46 - No. 32
8/19/26

Heather Davis, Esq.
Chief Clerk and
Legal Counsel to the Court

Clerk's Office
20 Eagle Street
Albany, New York 12207-1095
518-455-7700

COURT OF APPEALS NEW FILINGS

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

August 7, 2026 through August 13, 2026

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 ACOSTA (ADRIAN):
APL-2026-00108
1st Dept App. Div. order of 7/31/25; modification; leave to appeal granted by Rivera, J., 7/23/26;
Crimes—Possession of Weapon—Whether the statutory restriction in Penal Law § 400.00 prohibiting, with some exception, the issuance of firearm licenses to applicants 21 years of age or older violates the Second Amendment;
Supreme Court, Bronx County, convicted defendant of attempted criminal possession of a weapon in the second degree and sentenced him to five years of probation; App. Div. modified a judgment of Supreme Court, Bronx County, as a matter of discretion in the interest of justice, to the extent of vacating the surcharge and fees imposed on defendant

at sentencing, and otherwise affirmed.

MATTER OF BARLETTA v MARTUSCELLO:
APL-2026-00078
3rd Dept. App. Div. order of 7/24/25; affirmance; leave to appeal granted by the Court of Appeals, 5/28/26;
Proceeding Against Body or Officer—Whether respondent Commissioner of the Department of Corrections and Community Supervision waived the affirmative defense of failure to exhaust administrative remedies and Supreme Court erred in dismissing the CPLR article 78 petition challenging the failure of respondent to grant a prison grievance on that ground; whether petitioner exhausted his administrative remedies, or was excused from doing so, where respondent did not render a final decision within the 30-day period prescribed by its regulations and petitioner commenced this proceeding after that 30-day period;
Supreme Court, Albany County, in a proceeding under CPLR article 78, among other things, dismissed the petition; App. Div. affirmed.

PEOPLE v BROWN (ANDRELLO):
APL-2026-00111
4th Dept. App. Div. order of 3/20/26; affirmance; leave to appeal granted by Singas, J., 7/29/26;
Crimes—Jury—Jurors—Selection of Jury—Whether a Batson challenge to the exercise of a peremptory challenge to strike a prospective alternate juror becomes moot if no alternate jurors participate in deliberations;
County Court, Erie County, convicted defendant upon a jury verdict of murder in the second degree and criminal possession of a weapon in the second degree; App. Div. affirmed.

MATTER OF ALYSSA P. v JEFFREY P.:
APL-2026-00112
3rd Dept App. Div. order of 6/25/26; modification; sua sponte examination of whether the dissent is on a question of law;
Parent, Child, and Family—Custody—Whether mother was properly granted final decision-making authority in all parental disagreements;
Family Court, Saratoga County, among other things, dismissed petitioner's application, in a proceeding under Family Court Act article 6, to modify a prior order of custody, App. Div., with two Justices concurring in part and dissenting in part, modified by reversing so much of the order as dismissed petitioner's application and awarded respondent counsel fees, and granting the petition to the extent of awarding petitioner final decision-making authority on issues of parental disagreement after both parties have engage in good-faith, reasonable efforts to reach a joint decision and those efforts have failed, and, as so modified, affirmed.

PEOPLE v SOTO (JOSHUA):
APL-2026-00115
1st Dept. App. Div. order of 4/7/26; affirmance; leave to appeal granted by Wilson, Ch. J., 8/5/26;
Crimes—Right to Counsel—Whether, under *People v Colville* (20 NY3d 20 [2012]) and *McCoy v Louisiana* (584 US 414 [2018]), it is counsel's choice to concede a defendant's guilt

to a lesser included offense before the jury; Crimes—Jurors—Selection of Jury—Whether defendant's right to meaningfully participate in the selection of jurors was violated where prospective jurors were permitted to wear masks during individual questioning;
Supreme Court, New York County, convicted defendant, after a jury trial, of robbery in the third degree, and sentenced him, as a second felony offender, to a term of 3 to 6 years; App. Div. affirmed.