

COURT OF APPEALS NEW FILINGS

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

September 2, 2016 through September 8, 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.

HELMS (MARLO S.), PEOPLE v:

4TH Dept. App. Div. order of 7/8/16, modification; leave to appeal granted by Curran, J., 8/10/16;

CRIMES - SENTENCE - SECOND VIOLENT FELONY OFFENDER - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT DEFENDANT WAS IMPROPERLY SENTENCED AS A SECOND VIOLENT FELONY OFFENDER BECAUSE HIS CONVICTION OF BURGLARY IN GEORGIA DID NOT CONSTITUTE A PREDICATE FELONY INASMUCH AS THE GEORGIA STATUTE DEFINING BURGLARY LACKED THE KNOWLEDGE ELEMENT REQUIRED BY THE EQUIVALENT NEW YORK BURGLARY STATUTE;

County Court, Monroe County, convicted defendant, upon his guilty plea, of attempted criminal possession of a weapon in the second degree, and sentenced him as a second violent felony offender; App. Div. modified by vacating the sentence, affirmed the judgment as modified, and remitted the matter to County Court for further proceedings in accordance with the court's memorandum.

WORD (DIANE), PEOPLE v:

1ST Dept. App. Div. order of 4/13/99; affirmance and reversal; sua sponte examination whether a civil appeal lies from the order entered in this criminal action;

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - PEOPLE'S APPEAL TO THE APPELLATE DIVISION - CHALLENGE TO CONSTITUTIONAL VALIDITY OF CPL 450.20;

Supreme Court, New York County, granted defendant's motion for a trial order of dismissal to the extent of setting aside the verdict convicting her of murder in the second degree, and thereafter, convicted defendant, after a jury trial, of manslaughter in the second degree and sentenced her to a term of 5 to 15 years in prison; App. Div. affirmed the judgment of conviction, reversed the order granting defendant's motion for a trial order of dismissal to the extent of setting aside the verdict convicting her of murder in the second degree, reinstated the verdict, and remanded the matter for resentencing.