



*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

October 21, 2022 through October 27, 2022

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 AGUILAR (GONZALO):

1st Dept. App. Div. order of 6/28/22; affirmance; leave to appeal granted by Rivera, J., 9/15/22;

Crimes—Jurors—Whether trial court erred in declining to re-instruct jury on justification in response to jury note requesting definitions of the crimes charged; Crimes—Witnesses—Whether trial court deprived defendant of due process and the presumption of innocence by instructing jury that defendant was interested in outcome of proceedings.

Supreme Court, New York County, convicted defendant of murder in the second degree, attempted murder in the second degree attempted murder in the second degree and assault in the first degree, and sentenced him to an aggregate term of 25 years to life; App. Div. affirmed.

PEOPLE v BAEZ (MELVIN):

2nd Dept. App. Div. order of 2/23/22; affirmance; leave to appeal granted by Wilson, J., 9/29/22;

Crimes—Evidence—Whether the evidence was legally sufficient to establish chain of custody of certain drugs after they were recovered and vouchered into police custody; Crimes—Right to Representation Pro se—Whether the trial court improperly allowed defendant to represent himself at trial;

Supreme Court, Queens County, convicted defendant, after a nonjury trial, of criminal possession of a controlled substance in the fourth degree and using a portable electronic device while operating a motor vehicle, and imposed sentence; App. Div. affirmed.

CAVALIER v WARREN COUNTY BOARD OF ELECTIONS:

Warren County, Supreme Court order of 9/19/22; denial of motion; sua sponte examination of whether an appeal is currently pending at the Appellate Division and whether a direct appeal lies pursuant to CPLR 5601(b)(2);

Elections--Absentee Ballots--Whether the circumstances under which the Legislature may authorize absentee balloting are limited by New York's Constitution, Article II, Section 2;

Supreme Court, Warren County denied plaintiff's application for a preliminary injunction, granted the motions of Warren County Board of Elections and Intervenor Attorney General and dismissed the complaint against all defendants.