

COURT OF APPEALS NEW FILINGS

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

November 8, through November 14, 2019

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.

ALLEN (CHARO N.), PEOPLE v:

App. Term 9th and 10th Judicial Districts order of 5/30/19; affirmance; leave to appeal granted by Wilson, J., 10/9/19;

Crimes--Accusatory Instrument--Whether District Court properly dismissed accusatory instrument as facially insufficient where People failed to properly file a certificate of translation;

First Judicial District Court, Suffolk County, granted the branch of defendant's motion seeking to dismiss the accusatory instrument; App. Term affirmed.

BROOKS (KIETH), PEOPLE v a/k/a BROOKS (KEITH):

App. Term, 1ST Dept. order of 6/3/19; affirmance; leave to appeal granted by Wilson, J., 10/9/19;

Crimes--Accusatory Instrument--Whether certificate of translation was necessary to convert accusatory instrument to an information; whether certificate of translation must comply with 22 NYCRR 200.3;

Criminal Court of the City of New York, Bronx County, granted defendant's motion to dismiss the accusatory instrument pursuant to CPL 30.20; App. Term affirmed.

HODGDON (NICOLE), PEOPLE v:

3RD Dept. App. Div. order of 7/11/19; affirmance; leave to appeal granted by Fahey, J., 10/18/19;

District and Prosecuting Attorneys--Special Prosecutor--Whether Executive Law § 522 allows special prosecutor to prosecute individuals accused of crimes against vulnerable persons where the special prosecutor obtains the knowing, written consent of a district attorney to do so and the district attorney retains ultimate responsibility for the prosecution; constitutionality of Executive Law § 522;

Supreme Court, Albany County, granted defendant's motion to dismiss the indictment; App. Div. affirmed.

HOPE (JUSTIN), PEOPLE v:

3RD Dept. App. Div. order of 7/11/19; affirmance; leave to appeal granted by Fahey, J., 10/18/19;

District and Prosecuting Attorneys--Special Prosecutor--Whether Executive Law § 522 allows special prosecutor to prosecute individuals accused of crimes against vulnerable persons where the special prosecutor obtains the knowing, written consent of a district attorney to do so and the district attorney retains ultimate responsibility for the prosecution; constitutionality of Executive Law § 522;

County Court, Albany County, granted defendant's motion to dismiss the indictment; App. Div. affirmed.

SLADE (KENNETH), PEOPLE v:

App. Term, 1ST Dept. order of 6/6/19; affirmance; leave to appeal granted by Wilson, J., 10/9/19;

Crimes--Accusatory Instrument--Whether certificate of translation was required to convert complaint to information; denial of CPL 30.30 motion;

Criminal Court of the City of New York, Bronx County, convicted defendant of attempted assault in the third degree and harassment in the second degree; App. Term affirmed.

VIVIANI (MARIA Y.), PEOPLE v:

3RD Dept. App. Div. order of 7/11/19; affirmance; leave to appeal granted by Fahey, J., 10/18/19;

District and Prosecuting Attorneys--Special Prosecutor--Whether Executive Law § 522 allows special prosecutor to prosecute individuals accused of crimes against vulnerable persons where the special prosecutor obtains the knowing, written consent of a district attorney to do so and the district attorney retains ultimate responsibility for the prosecution; constitutionality of Executive Law § 522;

Supreme Court, Albany County, granted defendant's motion to dismiss the indictment; App. Div. affirmed.

WILLIAMS (LANCE), PEOPLE v:

1ST Dept. App. Div. order of 5/30/19; affirmance; leave to appeal granted by Wilson, J., 11/1/19;

Crimes--Possession of Weapon--Whether trial court properly denied defendant's request for a charge on the defense of temporary lawful possession; Crimes--Jurors--whether the hearing court properly denied defendant's CPL 330.30(2) motion to set aside the verdict on the ground of improper conduct toward a juror;

Supreme Court, Bronx County, convicted defendant of criminal possession of a weapon in the second degree and imposed sentence; App. Div. affirmed.

WONG, MATTER OF v PONTE &c et al.:

2ND Dept. App. Div. order of 6/12/19; affirmance; sua sponte examination whether the appeal was timely taken and whether a substantial constitutional question is directly involved to support an appeal as of right;

Proceeding Against Body or Officer--Dismissal of Petition--Whether this proceeding pursuant to CPLR article 78--to review a determination of the New York City Department of Correction, which terminated petitioner's probationary employment as a correction officer--was properly dismissed;

Supreme Court, Queens County, denied petition and dismissed proceeding pursuant to CPLR article 78 to review a determination of the New York City Department of Correction, which terminated petitioner's probationary employment as a correction officer; App. Div. affirmed.