



*State of New York
Court of Appeals*

Vol. 42 - No. 43
12/05/22

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COURT OF APPEALS NEW FILINGS

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

October 28, 2022 through November 3, 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.

LEMIEUX v HORN:

3rd Dept. App. Div. order of 10/13/22; affirmance; Rule 500.11 review pending;

Insurance—No-Fault Automobile Insurance—Whether summary judgment was properly granted in favor of defendants for lack of a serious injury sustained by plaintiff attributable to the motor vehicle accident;

Supreme Court, Broome County, among other things, granted defendants' cross motion for summary judgment dismissing the complaint; Supreme Court, Broome County, upon reargument, adhered to prior decision; App. Div. affirmed, with two Justices dissenting.

PEOPLE v MUHAMMAD (HANZA):

4th Dept. App. Div. order of 6/3/22; affirmance; leave to appeal granted by Rivera, J., 10/5/22;

Crimes—Right to a Public Trial—Whether defendant was denied right to a public

trial when court officers prevented spectators from entering courtroom for testimony of key witness; court had a standing policy preventing anyone from entering or exiting courtroom during testimony; whether trial counsel's failure to object to standing policy constituted ineffective assistance of counsel; Crimes—Right to Counsel—Effective Representation—Whether defense counsel was ineffective for failing to impeach identification witness with prior statement; Crimes—Sentence—Whether consecutive sentencing was appropriate;

County Court, Onondaga County, convicted defendant of murder in the second degree and criminal possession of a weapon in the second degree, App. Div. affirmed.

PEOPLE v RIVERA (JOSE M.):

4th Dept. App. Div. order of 2/4/22; affirmance; leave to appeal granted by Wilson, J., 10/13/22;

Crimes-Possession of Weapon--Whether the courts below erred in concluding that defendant was ineligible to be adjudicated as a youthful offender; whether defendant's conviction under Penal Law § 265.03(3), which criminalizes the possession of a firearm in public places, is unconstitutional under New York State Rifle & Pistol Assoc. v Bruen (597 US —, 142 S Ct 2111 [2022]);

Supreme Court, Monroe County, resentenced defendant upon his conviction of criminal possession of a weapon in the second degree; App. Div. affirmed.

PEOPLE v SIDBURY (STEVEN):

1st Dept. App. Div. order of 6/2/22; modification; leave to appeal granted by Rivera, J., 10/20/22;

Crimes--Arson--Whether the verdict was based on legally sufficient evidence; defendant set fire to a cuffing port in the door of his jail cell; Whether defendant's notice of intent to introduce expert psychiatric testimony under CPL 250.10 was insufficient; whether counsel was ineffective for failing to request a lesser-included charge;

Supreme Court, Bronx County, convicted defendant, following a jury trial, of second degree arson, and sentenced him, as a second violent felony offender, to 25 years; App. Div. modified to reduce the sentence in the interest of justice, and otherwise affirmed.

PEOPLE v WRIGHT (FREDDIE T.):

1st Dept. App. Div. order of 6/2/22; affirmance; leave to appeal granted by Wilson, J., 9/29/22;

Crimes—Jurors—Selection of Jury—Whether Supreme Court properly denied defendant's *Batson* challenges;

Supreme Court, Queens County, convicted defendant of robbery in the second degree and criminal trespass in the second degree, and imposed sentence; App. Div. affirmed.