

COURT OF APPEALS NEW FILINGS

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

November 19, 2021 through November 25, 2021

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.

MANKO v GABAY:

2nd Dept. App. Div. order of 9/24/21; denial of motion; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution, and whether any jurisdictional basis exists for an appeal as of right;

Appeal;

Supreme Court, Kings County, dismissed the complaint for plaintiff's failure to state a cause of action; App. Div. inter alia, denied a motion to recall and vacate an order of the court dated 9/30/13, and to reinstate an appeal from an order of Supreme Court, Kings County, dated 5/7/12.

PEOPLE v TINDAL (HAROLD):

2nd Dept. App. Div. order of 3/31/21; affirmance; leave to appeal granted by Wilson, J.,

11/12/21;

Crimes--Jurors--Selection of Jury--Whether defendant must join *Batson* challenges by jointly tried codefendant to preserve a *Batson* claim for appellate review;

Crimes--Sufficiency of the Evidence-- Whether legally sufficient evidence supports defendant's conviction for criminal trespass in the third degree; Crimes--Right to Counsel--Effective Representation--Whether defendant was deprived of the effective assistance of counsel;

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