State of New York
Court of Appeals

John P. Asiello
Chief Clerk and
Legal Counsel to the Court

Clerk's Office
20 Eagle Street
Albany, New York 12207-1095

March 31, 2016

NOTICE TO THE BAR

Amicus Curiae Participation

On December 22, 2015, a Judge of the Court granted defendant leave to appeal in People v Otis Boone. The appeal is proceeding in the normal course of full briefing and oral argument.

Following a jury trial, defendant was convicted of two counts of robbery in the first degree. The two complainants, both of whom are white, described their assailant as African-American, and picked defendant out of a line-up and identified him at trial as the person who had robbed them of their cell phones during two separate incidents. Supreme Court denied defense counsel's request for a jury instruction regarding the unreliability of cross-racial identifications because defendant presented no evidence on the issue and did not raise it on cross examination. The Appellate Division affirmed (129 AD3d 1099 [2nd Dept 2015]). Defendant argues that the trial court's refusal to give a cross-racial identification instruction deprived him of a fair trial where the evidence connecting him to each robbery rested on a single-witness identification.

The Court invites amicus curiae participation from those qualified and interested.

Amicus motions must comply with section 500.23 of the Rules of the Court of Appeals. The text of the Rule is available on the Court's internet web site at:

http://www.courts.state.ny.us/ctapps/500rules.htm. Amicus

Questions may be directed by telephone to the Clerk's Office at (518) 455-7705.