

COURT OF APPEALS NEW FILINGS

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

June 1, 2018 through June 7, 2018

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.

GARLAND, (TAMARKQUA), PEOPLE v:

1ST Dept. App. Div. order of 11/28/17; affirmance; leave to appeal granted by Manzanet-Daniels, J., 5/30/18;

Crimes--Verdict--Sufficiency of Evidence--Whether evidence was legally sufficient to establish that complainant suffered a serious physical injury, as required for assault in the first degree convictions, where complainant testified that, four years after he was struck by bullet, he still felt bullet fragments in his leg, experienced pain, and could not engage in sports at the same level as before the incident; Right to Speedy Trial—whether defendant met burden of demonstrating that People's statement of readiness was illusory;

Supreme Court, Bronx County, convicted defendant of two counts of assault in the first degree and one count of criminal possession of a weapon in the second degree; App. Div. affirmed.

KOSMIDER, MATTER OF v WHITNEY, et al.:

3RD Dept. App. Div. order of 4/12/18; affirmance with dissents;

Records--Freedom of Information Law--Whether electronic images of ballots cast in an election are accessible under the Freedom of Information Law (Public Officers Law art 6 [FOIL])--exemption from disclosure of certain documents under Election Law § 3-222 (2); elections--ballots;

Supreme Court, Erie County, among other things, granted petitioner's CPLR article 78 application to annul a determination of respondent Chairperson of the Essex County Board of Supervisors denying petitioner's FOIL request; App. Div. affirmed.

MENDOZA (DAVID), PEOPLE v:

2ND Dept. App. Div. order of 11/1/17; affirmance; leave to appeal granted by DiFiore, Ch.J., 5/16/18;

Crimes--Right to Counsel--Effective Representation--Whether defendant was denied the effective assistance of counsel when his attorney advanced a jury nullification defense at trial;

Supreme Court, Kings County, convicted defendant, upon a jury verdict, of two counts of burglary in the second degree and two counts of petit larceny, and imposed sentence; App. Div. affirmed.