



*State of New York
Court of Appeals*

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*Lisa Le Court
Chief Clerk and
Legal Counsel to the Court*

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

COURT OF APPEALS NEW FILINGS

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

June 7, 2024 through June 13, 2024

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.

PEOPLE v MOSS (DWIGHT):

APL-2024-00066

4th Dept. App. Div. order of 12/22/23; affirmance; leave to appeal granted by the Court of Appeals, 5/23/24;

Crimes—Sex Offenders—Where prior conviction for felony sex offense has been deemed unconstitutional for predicate sentencing purposes, whether that prior felony sex conviction can support application of an automatic override in a sex offender risk level adjudication proceeding;

Supreme Court, Monroe County, adjudicated defendant a level three sex offender; App. Div. affirmed.

PEOPLE v SALAS (CHRISTOPHER):

APL-2024-00067

1st Dept. App. Div. order of 10/19/23; modification; leave to appeal granted by Wilson, Ch.J., 5/22/24;

Crimes—Vacatur of Judgment of Conviction—Whether Supreme Court erred in denying defendant a reconstruction hearing based on an alleged violation of People v O’Rama (78 NY2d 270 [1991]); Crimes—Right to Counsel—Effective Representation—Whether counsel was ineffective for failing to pursue a Wade/Rodriguez hearing;

Supreme Court, Bronx County, convicted defendant after a jury trial of murder in the second degree, and sentenced defendant to a term of 22 years to life; Supreme Court, Bronx County, denied defendant's CPL 440.10 motion to vacate the judgment; App. Div. (1) modified the judgment by reducing the sentence to a term of 19 years to life, and otherwise affirmed the judgment; and (2) affirmed the order.

MATTER OF YI v BPMC:

APL-2024-00068

3rd Dept. App. Div. order of 4/11/24; confirmed determination;

Physicians and Surgeons—Whether clinical guidelines issued by a professional society establish the standard of care applicable to a physician disciplinary proceeding; Whether the Appellate Division can take judicial notice of such guidelines when they have not been introduced in evidence at the administrative disciplinary hearing;

App. Div., in a proceeding pursuant to CPLR article 78 to review a determination of a Hearing Committee of respondent revoking petitioner’s license to practice medicine in New York, with two Justices dissenting, affirmed the determination and dismissed the petition.