

COURT OF APPEALS NEW FILINGS

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

January 27, 2012 through February 2, 2012

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.

GARCIA (MIGUEL), PEOPLE v:

1ST Dept. App. Div. order of 4/26/11; reversal; leave to appeal granted by Smith, J., 1/18/12;

CRIMES-UNLAWFUL SEARCH AND SEIZURE - WHETHER THE POLICE HAVE THE RIGHT TO ASK THE OCCUPANTS OF A CAR WHETHER THEY HAVE ANY WEAPONS ONCE THE POLICE LAWFULLY STOP THE CAR FOR ANY REASON; INEVITABLE DISCOVERY DOCTRINE;

Supreme Court, Bronx County convicted defendant, upon his guilty plea, of two counts of attempted unlawful possession of an air pistol or air rifle in violation of Administrative Code of the City of New York § 10-13(b)(1); App. Div. reversed, vacated the judgment of conviction, granted the suppression motion and dismissed the information.

NORTON (DARNELL), PEOPLE v:

4TH Dept. App. Div. order of 9/30/11; affirmance; leave to appeal granted by Graffeo, J., 12/16/11; Rule 500.11 review pending; CRIMES - APPEAL - APPEAL WAIVER IN CONNECTION WITH GUILTY PLEA - APPELLATE DIVISION DID NOT SPECIFY WHETHER ITS AFFIRMANCE OF DEFENDANT'S CONVICTION WAS BASED ON THE VALIDITY OF THE APPEAL WAIVER OR ITS REVIEW AND REJECTION OF DEFENDANT'S EXCESSIVE SENTENCE CLAIM;

Supreme Court, Monroe County convicted defendant, upon his guilty plea, of robbery in the first degree; App. Div. affirmed.