

COURT OF APPEALS NEW FILINGS

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

December 28, 2012 through January 3, 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.

FLINN (GUNTHER J.), PEOPLE v:

4TH Dept. App. Div. order of 9/28/12; affirmance; leave to appeal granted by Graffeo, J., 12/20/12;

CRIMES - RIGHT TO BE PRESENT AT TRIAL - WHETHER DEFENDANT'S RIGHT TO BE PRESENT AT ALL MATERIAL STAGES OF PROCEEDINGS WAS VIOLATED - DEFENDANT'S ATTORNEY WAIVED HIS RIGHT TO BE PRESENT AT SIDEBAR CONFERENCES IN A SIDEBAR CONFERENCE OUTSIDE OF DEFENDANT'S PRESENCE - ANTOMMARCHI RIGHTS; REFUSAL OF TRIAL COURT TO CHARGE LESSER INCLUDED OFFENSES;

Jefferson County Court convicted defendant, upon a jury verdict, of attempted murder in the second degree, assault in the first degree, two counts of intimidating a victim or witness in the first degree, assault in the second degree, obstructing governmental administration in the second degree, resisting arrest, harassment in the second degree and disorderly conduct; App. Div. affirmed.