

COURT OF APPEALS NEW FILINGS

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

April 19, 2013 through April 25, 2013

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.

GORDON (HAZEL E.), PEOPLE v:

3RD Dept. App. Div. order of 12/6/12; modification; leave to appeal granted by Pigott, J., 4/11/13;

CRIMES - ROBBERY - PETIT LARCENY - EFFECT OF FAILURE TO RECOVER STOLEN PROPERTY ON ROBBERY CHARGES - ASSAULT - SUFFICIENCY OF THE EVIDENCE;

Supreme Court, Albany County convicted defendant, after a jury trial, of robbery in the first degree, two counts of robbery in the second degree, and assault in the second degree; App. Div. modified by reducing defendant's convictions of robbery in the first degree and robbery in the second degree under counts 1, 2 and 6 of the indictment to petit larceny, remitted to Supreme Court for resentencing, and affirmed as so modified.

ROSSI (JOHN), PEOPLE v:

2ND Dept. App. Div. order of 10/17/12; affirmance; leave to appeal granted by Chambers, J., 2/7/13; Rule 500.11 review pending;

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WARRANTLESS SEARCH FOR GUN - EMERGENCY EXCEPTION TO WARRANT REQUIREMENT; SUFFICIENCY OF THE EVIDENCE; ALLEGED PROSECUTORIAL MISCONDUCT; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL;
Nassau County Court convicted defendant of criminal possession of a weapon in the second degree, upon a jury verdict, and imposed sentence; App. Div. affirmed.

WALSTON (JAMEL), PEOPLE v:

2ND Dept. App. Div. order of 12/26/12; affirmance; leave to appeal granted by Smith, J., 4/17/13;

CRIMES - JURORS - WHETHER TRIAL COURT ERRED IN FAILING TO INFORM COUNSEL OF THE EXACT CONTENTS OF A JURY NOTE - WHETHER CONTENT OF NOTE WAS SUBSTANTIVE; PRESERVATION; CLAIMED DENIAL OF DUE PROCESS AND INEFFECTIVE ASSISTANCE OF COUNSEL;

Supreme Court, Kings County convicted defendant, upon a jury verdict, of manslaughter in the first degree and criminal possession of a weapon in the second degree, and imposed sentence; App Div., upon reargument and after vacating a prior order, affirmed.