

COURT OF APPEALS NEW FILINGS

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

September 5, 2014 through September 11, 2014

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.

AMBERS (NUGENE), PEOPLE v:

2ND Dept. App. Div. order of 3/5/14; affirmance; leave to appeal granted by Abdus-Salaam, J., 8/25/14;

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DENIED THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WHERE HIS COUNSEL FAILED TO RAISE A STATUTE OF LIMITATIONS DEFENSE AS TO CERTAIN COUNTS, OBJECT TO CERTAIN STATEMENTS BY THE PROSECUTOR, MOVE FOR A MISTRIAL OR REQUEST CURATIVE INSTRUCTIONS; Supreme Court, Queens County, convicted defendant of course of sexual conduct against a child in the first degree, course of sexual conduct against a child in the second degree, rape in the second degree, and two counts of endangering the welfare of a child, and imposed sentence; App. Div. affirmed.

CEDENO (ASSAD), PEOPLE v:

2ND Dept. App. Div. order of 1/15/14; affirmance; leave to appeal granted by Smith, J., 9/3/14;

CRIMES - RIGHT OF CONFRONTATION - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE ADMISSION INTO EVIDENCE OF A CODEFENDANT'S REDACTED STATEMENT TO POLICE DID NOT VIOLATE THE BRUTON RULE "BECAUSE THE SUBJECT REDACTION WOULD NOT HAVE CAUSED THE JURORS TO REALIZE THAT THE CONFESSION REFERS SPECIFICALLY TO THE DEFENDANT" - PROOF OF OTHER CRIMES - WHETHER THE TRIAL COURT IMPROPERLY ADMITTED PRIOR UNCHARGED CRIME EVIDENCE AGAINST DEFENDANT WITHOUT FIRST EVALUATING ITS RELIABILITY;

Supreme Court, Queens County, convicted defendant, upon a jury verdict, of gang assault in the first degree and criminal possession of a weapon in the fourth degree; App. Div. affirmed.

ROSARIO (LUCIANO), PEOPLE v:

1ST Dept. App. Div. order of 3/13/14; denial of writ of error coram nobis; leave to appeal granted by Graffeo, J., 9/4/14;

CRIMES - APPEAL - DENIAL OF APPLICATION FOR A WRIT OF ERROR CORAM NOBIS - ALLEGED INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL FOR FAILING TO INFORM DEFENDANT ABOUT THE APPELLATE PROCESS AND FAILING TO FILE A NOTICE OF APPEAL FROM DEFENDANT'S GUILTY PLEA; App. Div. denied defendant's application for writ of error coram nobis.