

COURT OF APPEALS NEW FILINGS

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

August 24, 2018 through August 30, 2018

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.

ACCOUNTING BY EUGENE (SCHUMACHER v EUGENE):

1ST Dept. App. Div. order of 4/12/18; affirmance; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution and whether a substantial constitutional question is directly involved to support an appeal as of right;

Receivers--Appointment--Whether Surrogate's Court improvidently exercised its discretion in appointing temporary receiver in accounting proceeding; alleged due process violation;

Surrogate's Court, Bronx County, inter alia, granted potential will objectants' motion to appoint a temporary receiver; App. Div. affirmed.

ROUSE (CLARENCE), PEOPLE v:

1ST Dept. App. Div. order of 3/20/18; affirmance; leave to appeal granted by Rivera, J., 8/6/18;

Crimes--Witnesses--Whether trial court's restriction of cross-examination of a police witness concerning prior bad acts deprived defendant of his right to confrontation; whether the trial judge's denigration of defense counsel in front of the jury deprived defendant of a fair trial; whether trial court properly excluded evidence including 911 recordings; whether the verdict was based on legally sufficient evidence;

Supreme Court, Bronx County, convicted defendant, after jury trial, of attempted murder in the second degree, criminal use of a firearm in the first degree and two counts of criminal possession of a weapon in the second degree, and sentenced him, as a second violent felony offender, to an aggregate term of 18 years; App. Div. affirmed.

WILLIAMS (CADMAN), PEOPLE v:

1ST Dept. App. Div. order of 2/8/18; affirmance; leave to appeal granted by Rivera, J., 8/16/18;

Crimes--Evidence--Whether trial court abused its discretion in failing to hold a Frye hearing regarding admission of Low Copy Number Typing and the Forensic Statistical Tool used by the Office of the Chief Medical Examiner; Crimes—Right to Counsel—Effective Representation—whether counsel was ineffective for failing to challenge court's justification instruction; Crimes—Evidence—whether recordings of defendant's phone calls, made while defendant was in pretrial detention, were admissible;

Supreme Court, Bronx County, convicted defendant of manslaughter in the first degree and criminal possession of a weapon in the second degree, and sentenced defendant to an aggregate term of 20 years; App. Div. affirmed.