



*State of New York
Court of Appeals*

Vol. 42 - No. 9

3/15/22

Clerk's Office

20 Eagle Street

Albany, New York 12207-1095

*John P. Ariella
Chief Clerk and
Legal Counsel to the Court*

COURT OF APPEALS NEW FILINGS

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

March 4, 2022 through March 10, 2022

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.

PEOPLE v MCKENZIE-SMITH (KESEAN R.):

4th Dept. App. Div. order of 10/9/20; reversal; leave to appeal granted by Wilson, J., 2/28/22;

Crimes--Right to be Present at Trial--Whether defendant's absence from a sidebar conference held prior to the waiver of his rights under *People v Antommarchi* (80 NY2d 247 [1992]) requires a new trial;

Supreme Court, Monroe County, convicted defendant upon a jury verdict of second-degree murder, first-degree robbery (three counts), and first-degree attempted robbery (two counts); App. Div. reversed and granted new trial.

MATTER OF MOORE v U.S. XPRESS:

App. Div. 3rd Dept. order of 1/6/22; affirmance; sua sponte examination of whether any jurisdictional basis exists for the appeal;

Workers' Compensation--Casual Relation--Whether substantial evidence supports the Board's determination that claimant's injuries did not arise out of and in the course of his employment and therefore were not compensable;

Determination, Workers' Compensation Board ruling (8/13/20), among other things, ruled that claimant's injury did not arise out of and in the course of his employment and denied his claim for workers' compensation benefits; Determination, Workers' Compensation Board ruling (10/7/20), denied request for reconsideration or full board review; App. Div. affirmed.