

COURT OF APPEALS NEW FILINGS

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

August 23 through August 29, 2019

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.

HAIGLER, MATTER OF v LILLEY (APP. DIV. NO. 528234):

3RD Dept. App. Div. order of 6/27/19; confirmation of determination; sua sponte examination on whether any basis for an appeal as of right;

Prisons and Prisoners--Discipline of Inmates--Whether the Appellate Division properly confirmed the determination of respondent finding petitioner guilty of a prison disciplinary rule;

App. Div. confirmed determination of respondent finding petitioner guilty of a prison disciplinary rule, and dismissed petitioner's CPLR article 78 petition.

PATTERSON (RUDY), PEOPLE v:

4TH Dept. App. Div. order of 6/14/19; modification; leave to appeal granted by Lindley, J., 7/29/19; Rule 500.11 review pending;

Crimes--Jurors--Challenge to Juror for Cause--Whether trial court erred in denying defendant's challenge for cause to a prospective juror; Crimes--Suppression--Whether the court properly denied defendant's motion to suppress physical evidence and statements; Crimes--Right to Counsel--Whether court abused its discretion in reassigning a certain attorney to serve as defense counsel when the court previously relieved the same attorney due to an apparent conflict of interest; Crimes--Witnesses--Whether court properly allowed police officer to testify on matters relating to drug transactions that were not within the common knowledge or experience of the average juror; Crimes--Appeal--Preservation of Issue for Review--challenge to prosecutor allegedly vouching for police witnesses;

Supreme Court, Monroe County, convicted defendant of criminal possession of a controlled substance in the third degree and criminal possession of a controlled substance in the fifth degree; App. Div. modified, by reversing that part of the judgment convicting defendant of criminal possession of a controlled substance in the fifth degree and granted a new trial on that count of the indictment, and, as so modified, affirmed the judgment.

PROTECT THE ADIRONDACKS v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION:

3RD Dept. App. Div. order of 7/3/19; reversal; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right and whether plaintiff is a party aggrieved;

Constitutional Law--State Constitutional Law--Whether the plan of defendants Adirondack Park Agency and Department of Environmental Conservation to construct Class II Community Connector trails in the Forest Preserve of the Adirondack Park would result in an unconstitutional destruction of "timber" in violation of article XIV, § 1;

Supreme Court, Albany County, entered upon a decision of the court in favor of defendants; App. Div. reversed and declared that planned construction of trails violates NY Constitution, article XIV, § 1.