

COURT OF APPEALS NEW FILINGS

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

**June 1, 2012 through June 7, 2012**

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.**

DELISER (JOSUE), PEOPLE v:

2<sup>ND</sup> Dept. App. Div. order of 6/21/11; affirmance; leave to appeal granted by Jones, J., 6/1/12;

CRIMES - PLEA OF GUILTY - ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL WHO PURPORTEDLY TOOK AN ADVERSE POSITION TO DEFENDANT ON DEFENDANT'S UNSUCCESSFUL PRO SE MOTION TO WITHDRAW HIS GUILTY PLEAS;

Supreme Court, Kings County convicted defendant of attempted murder in the second degree under Indictment No. 2938/06, and robbery in the first degree under Indictment No. 5477/07, upon his guilty pleas, and imposed sentences; App. Div. affirmed.

OLIVERAS (GEORGE), PEOPLE v:

1<sup>ST</sup> Dept. App. Div. order of 12/27/11; reversal with dissents;

leave to appeal granted by Catterson, J., 4/12/12;

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT HAD EFFECTIVE ASSISTANCE OF COUNSEL WHERE HIS COUNSEL FAILED TO OBTAIN HIS MEDICAL RECORDS OR TO CONSULT WITH AN EXPERT PSYCHIATRIST OR PSYCHOLOGIST TO SUPPORT THE DEFENSE CLAIM THAT DEFENDANT LACKED THE MENTAL CAPACITY TO VOLUNTARILY CONFESS TO A CRIME - ONLY EVIDENCE LINKING DEFENDANT TO CRIME WAS HIS STATEMENTS TO POLICE;

Supreme Court, Bronx County denied defendant's CPL 440.10 motion to vacate a 2/13/02 judgment convicting him of murder in the second degree and sentencing him to 25 years to life; App. Div. reversed, granted defendant's CPL 440.10 motion, and remanded the matter for a new trial.

STANLEY (HILBERT), PEOPLE v:

1<sup>ST</sup> Dept. App. Div. order of 1/12/12; affirmance with dissents;

leave to appeal granted by Smith, J., 5/11/12; Rule 500.11 review pending;

CRIMES - RIGHT TO COUNSEL - CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL FOR FAILING TO PURSUE AFFIRMATIVE DEFENSE TO CHARGE OF ROBBERY IN THE FIRST DEGREE BECAUSE THE "WEAPON" DISPLAYED DURING THE ROBBERY WAS NOT A "LOADED WEAPON FROM WHICH A SHOT, READILY CAPABLE OF PRODUCING DEATH OR OTHER SERIOUS PHYSICAL INJURY, COULD BE DISCHARGED" (PENAL LAW § 160.15[4]); CHALLENGE TO SHOW-UP IDENTIFICATION;

Supreme Court, Bronx County convicted defendant, after a jury trial, of robbery in the first degree, and imposed sentence; App. Div. affirmed.