

COURT OF APPEALS NEW FILINGS

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

February 21, 2020 through February 27, 2020

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.

LEWIS (DAVE), PEOPLE v:

App. Term 1ST Dept. order 10/24/19; affirmance; leave to appeal granted by Feinman, J., 2/10/20;

Motor Vehicles--Injuries to Bicyclist--Whether New York City Administrative Code § 19-190(b) and New York State Vehicle and Traffic Law § 1146(c)(1) impose a civil negligence standard of care rather than a criminal negligence standard; whether New York City Administrative Code § 19-190(b) and New York State Vehicle and Traffic Law § 1146(c)(1), if interpreted to impose a civil negligence standard, are unconstitutional for using a civil negligence standard as a basis for criminal liability; Whether New York City Administrative Code § 19-190(b), if interpreted to impose a civil negligence standard, is preempted by state law; Whether the evidence was legally sufficient to support the verdict;

Criminal Court of the City of New York, following a nonjury trial, convicted defendant of failure to exercise due care to avoid collision with a bicyclist and failure to yield to a bicyclist, and imposed sentence; App. Div. affirmed.

LORA (ANTHONY), PEOPLE v:

1ST Dept. App. Div. order of 11/21/19; reversal with two-Justice dissent; sua sponte examination of whether the appeal lies from the 11/21/19 App. Div. order of reversal; leave to appeal granted by Acosta, J., 1/27/20;

Crimes--Right to Speedy Trial--The Appellate Division held that the motion court improvidently exercised its discretion over calendar matters when it refused to accept the People's untimely opposition papers and refused to reconsider its decision to grant defendant's CPL 30.30 motion as unopposed; whether the Appellate Division had the power, under CPL 470.15, to reverse the decision of the motion in the interest of justice;

Supreme Court, Bronx County, granted defendant's speedy trial motion and dismissed indictment; App. Div. reversed and remanded for consideration of defendant's CPL 30.30 motion.

REARDON, &c., MATTER OF v GLOBAL CASH CARD, INC.:

3RD Dept. App. Div. order of 1/9/20; modification and affirmance; sua sponte examination of whether a substantial constitutional question is directly involved to support an appeal as of right;

Proceeding Against Body or Officer--Whether, as determined by respondent Industrial Board of Appeals, petitioner-respondent Roberta Reardon, in her capacity as Commissioner of the Department of Labor, exceeded the rule-making authority delegated to her by the legislature in promulgating the portions of 12 NYCRR part 192 that relate to payroll debit cards; Whether the determination of respondent Industrial Board of Appeals had a rational basis;

Supreme Court, Albany County, among other things, granted petitioner's application, in a proceeding pursuant to CPLR article 78, to annul a determination of respondent Industrial Board of Appeals revoking 12 NYCRR part 192; App. Div. modified by reversing so much thereof as denied the motion of respondent Global Cash, Inc. to strike an affidavit and affirmation submitted by petitioner, granted motion, and as so modified, affirmed.