

COURT OF APPEALS NEW FILINGS

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

October 2, 2020 through October 8, 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.

ALLEN (DANIELLE), PEOPLE v:

4TH Dept. App. Div. order of 5/1/20; affirmance; leave to appeal granted by Bannister, J., 9/21/20; Rule 500.11 review rule pending;

Crimes--Verdict--Sufficiency of Evidence--Whether the evidence was legally sufficient to disprove defendant's justification defense;

Livingston County Court, convicted defendant, upon a jury verdict, of manslaughter in the second degree; App. Div. affirmed.

EASLEY (LEVAN), PEOPLE v.:

2ND Dept. App. Div. order of 4/3/19; affirmance; leave to appeal granted by Stein, J., 9/21/20;

Crimes--Identification of Defendant--Frye Hearing-- Whether defendant was entitled to a Frye hearing (see Frye v United States, 293 F 1013 [DC Cir 1923]) to challenge the admissibility of the People's DNA evidence based on the use of the forensic statistical tool (FST) to derive a likelihood ratio regarding the presence of defendant's DNA on the trigger of a firearm; Whether materials underlying the FST were required to be disclosed pursuant to Brady v Maryland (373 US 83 [1963]); Supreme Court, Queens County, convicted defendant, upon a jury verdict, of criminal possession of a weapon in the second degree and criminal possession of a weapon in the third degree (two counts), and imposed sentence; App. Div. affirmed.

SCHUTT v BOOKHAGEN et al.:

4TH Dept. App. Div. order of 8/20/20; modification; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution;

Labor--Safe Place to Work--Whether plaintiff was entitled to summary judgment on the issue of liability with respect to the Labor Law § 240(1) cause of action; Supreme Court, Erie County, granted in part and denied in part plaintiff's motion for partial summary judgment and granted defendants' cross motion for partial summary judgment; App. Div. modified, by granting that part of the plaintiff's motion seeking summary judgment on liability with respect to the Labor Law § 240(1) cause of action and, as so modified, affirmed.

TAYLOR, PEOPLE ex rel. v BRANN, &c.:

1ST Dept. App. Div. order of 3/19/20; sua sponte examination of whether any jurisdictional basis exists for an appeal as of right and whether the order appealed from finally determines the action within the meaning of the Constitution;

Motions and Orders;

App. Div. denied motions for reargument and renewal and/or, in the alternative, for reargument or leave to appeal to this Court.