

COURT OF APPEALS NEW FILINGS

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

January 15, 2021 through January 21, 2021

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.

800 Grand Concourse Owners, Inc. v Pettus:

New York City Civil Court, Bronx County, order dated 12/8/20; denied motion to dismiss; sua sponte examination of whether any basis exists for an appeal as of right;

Landlord and Tenant--Holdover Proceeding--Direct appeal from Civil Court order granting landlord's motion for summary judgment; alleged constitutional violations;
New York City Civil Court, Bronx County, denied respondents' motion to dismiss and granted petitioner's cross motion for summary judgment.

RODRIGUEZ (LUIS), PEOPLE v:

2ND Dept. App. Div. order of 10/21/20; reversed with dissents; leave to appeal granted by Rivera, J., 12/28/20;

Crimes--Evidence--Whether screenshots purporting to depict selected portions of a text message conversation between defendant and the complainant were properly admitted into evidence;

Supreme Court, Queens County, convicted defendant, upon a jury verdict, of attempted use of a child in a sexual performance, disseminating indecent material to a minor in the first degree, and endangering the welfare of a child, and imposed sentence; App. Div. reversed, dismissed the first and second counts of the indictment, charging defendant with attempted use of a child in a sexual performance and disseminating indecent material to a minor in the first degree, respectively, with leave to the People to represent any appropriate charges to a new Grand Jury, and remitted the matter to Supreme Court for further proceedings consistent therewith.

ROMULUS (CLEFRANTZ), PEOPLE v:

1ST Dept. App. Div. order of 12/15/20; affirmance with dissents; sua sponte examination of whether the two-Justice dissent at the App. Div. is on a question of law;

Crimes--Sex Offenders--Whether the Sex Offender Registration Act (SORA) court providently exercised its discretion in reducing defendant's designation to risk level two and in declining to further reduce defendant's designation to risk level one;

Supreme Court, Bronx County, adjudicated defendant a level two sex offender pursuant to SORA; App. Div. affirmed.

TAYLOR (QUANIECE S.), PEOPLE v:

2ND Dept. App. Div. order of 7/8/20; modification; leave to appeal granted by Barros, J., 11/9/20;

Crimes--Jurors--Selection of Jury--Whether the People's statement that a juror "was from Trinidad" and not African American constituted a facially nondiscriminatory basis for a preemptory strike under step two of the Batson analysis (see Batson v Kentucky, 476 US 779 [1986]); Whether defendant's Batson challenge as to the juror was preserved for appellate review;

Supreme Court, Queens County, convicted defendant of assault in the second degree, assault in the third degree, and petit larceny, upon a jury verdict; App. Div. modified, by vacating the conviction of assault in the third degree, vacating the sentence imposed thereon, and dismissing that county of the indictment, and as so modified, affirmed.

ZELIG v STATE OF NEW YORK DIVISION OF HOUSING AND COMMUNITY
RENEWAL, et al.:

1ST Dept. App. Div. order of 12/22/20; reversal; sua sponte examination of whether the order appealed from finally determines the proceeding within the meaning of the Constitution;

Landlord and Tenant--Rent Regulation--Whether Supreme Court erred in denying remission to the New York State Division of Housing and Community Renewal (DHCR) for further fact finding and a new determination on the petition to deregulate the subject apartment; initial review of deregulation petition based on erroneous information;

Supreme Court, New York County, denied the petition to annul a determination of respondent DHCR, dated June 14, 2018, which affirmed a determination of the Rent Administrator (RA) that deregulated petitioner's apartment, and dismissed the proceeding; App. Div., reversed and remitted the matter to Supreme Court with instructions to remand to DHCR for further proceedings in accordance with the opinion.