

CASE ISSUE STATEMENTS

The calendar is subject to change. Please contact the Clerk's Office for any updated information.

If available, briefs, records and appendices can be viewed and downloaded from the Court of Appeals Public Access and Search System (Court-PASS), which is accessible from the home page on the Court's website.

MONDAY, MARCH 23, 2015

Matter of SNY v Robert F. (Cal. No. 53)

APL-2014-00101

Crimes--Sex offenders--Civil commitment or supervision--Whether Supreme Court erred by permitting the State's expert to provide rebuttal testimony at a dispositional hearing via two-way video conference--Whether the hearing court is required to make a finding of "good cause" or "exceptional circumstances" before permitting a rebuttal witness to testify via two-way video conference instead of in person.

Matter of Soares v Carter (Cal. No. 70)

APL-2014-00137

Proceeding against body or officer--Prohibition--Whether a writ of prohibition lies where a District Attorney seeks an order prohibiting a Judge from exercising his contempt power over the District Attorney who has elected not to continue a criminal prosecution.

People v Sergio Rodriguez (Cal. No. 55)

APL-2014-00087

Crimes--Sentence--Concurrent and consecutive terms--Change, on resentencing, from concurrent to consecutive sentences--Whether the imposition of consecutive sentences for Assault and First Degree Robbery violated Penal Law § 70.25(2), where the assault, a shooting, occurred in the course of the robbery; Remarks made by resentencing court; Claimed violation of due process

Matter of Kasckarow v Board of Examiners of Sex Offenders of SNY (Cal. No. 56)

APL-2013-00286

Crimes--Sex Offenders--Sex Offender Registration Act (SORA)--Out-of-State Nolo Contendere Plea treated as conviction--Whether a plea in Florida of nolo contendere to a felony sex crime constitutes a "conviction" under SORA so that registry as a sex offender is required in New York.

People v Anthony Pacharille (Cal. No. 57)

APL-2013-00277

Crimes--Appeal--Waiver of right to appeal sentencing court's denial of youthful offender status--Sentencing court believed plea agreement precluded youthful offender treatment for the 16-year-old defendant.

TUESDAY, MARCH 24, 2015

Matter of Natural Resources Defense Council v NYS DEC (Cal. No. 48)

APL-2015-00043

Environmental Conservation--State pollutant discharge elimination permit--Statewide general permit for storm water discharges from municipal separate storm sewer systems--Whether the Appellate Division correctly determined that the general permit at issue does not violate 33 USC § 1342(a)(1), 33 USC § 1342(p)(3)(B)(iii), ECL 17-0805(1)(a)(ix), ECL 17-0808(3)(c), ECL 17-0811(5), ECL 17-0813, or 6 NYCRR 750-11.14.

People v Jarrod Brown (Cal. No. 58)

APL-2014-00111

Crimes--Sentence--Resentencing under Drug Law Reform Act, as amended in 2011--Eligibility--Whether a parolee is in the "custody" of the New York State Department of Corrections and Community Supervision within the meaning of CPL 440.46(1) and, thus, eligible for resentencing under that provision.

Matter of Dempsey v NYC Department of Education (Cal. No. 59)

APL-2013-00328

Civil Rights--Discrimination based on previous criminal prosecution--Direct relationship exception--Whether determination denying application for certification as a school bus driver was arbitrary and capricious, and abuse of discretion or contrary to law.

Matter of Banos v Rhea (Cal. No. 60)

APL 2014-00078

Limitation of actions--Four-month statute of limitations--Challenge to termination of section 8 subsidy--Whether the statute of limitations begins to run upon a section 8 beneficiary's receipt of a notice of default letter only where the New York City Housing Authority strictly complies with the three-step notice procedure set forth in the first partial consent judgment in Williams v New York City Housing Auth. (SDNY 1984).

Matter of Dial v Rhea (Cal. No. 61)

APL 2014-00110

Limitation of actions--Four-month statute of limitations--Challenge to termination of section 8 subsidy--Whether the statute of limitations begins to run upon a section 8 beneficiary's receipt of a notice of default letter only where the New York City Housing Authority strictly complies with the three-step notice procedure set forth in the first partial consent judgment in Williams v New York City Housing Auth. (SDNY 1984).

People v David Rivera (Cal. No. 20)

APL-2013-00145

Crimes--Witnesses--Physician-patient privilege (CPLR 4505)--Whether testimony of psychiatrist to whom defendant admitted sexual abuse of a child was properly admitted at trial in light of the witness's prior reporting of defendant's statements to the Administration for Child Services.

WEDNESDAY, MARCH 25, 2015

Malay v City of Syracuse (Cal. No. 62)

APL-2014-00105

Limitation of Action--Commencement of action within six months after termination of prior action (CPLR 205[a])--Whether prior federal action was terminated within the meaning of CPLR 205(a) when federal district court dismissed plaintiff's federal and state claims, where plaintiff took an appeal to the federal court of appeals and filed the second action in state court while the appeal was pending, although the federal appeal was later dismissed for failure to prosecute.

People v Clifford Graham (Cal. No. 63)

APL-2014-00129

Crimes--Confession--Whether statements defendant made to police should have been suppressed because they were given during a custodial interrogation and without the prior administration of Miranda warnings--Whether the Appellate Division correctly held that those statements were not subject to suppression because the police could infer from defendant's conduct and his attorney's assurances that defendant waived his Miranda rights and that such waiver was made on the advice of counsel.

Matter of Estate of Robyn R. Lewis, Deceased (Cal. No. 64)

APL-2014-00144

Wills--Objections--Revocation--Presumption of revocation by destruction based upon petitioner's failure to produce all copies of first will--Alleged failure of courts below to exercise equity power--Effect of testimony regarding lost second will and decedent's intent to revoke the first will.

People v Pernell A. Flanders (Cal. No. 65)

APL-2014-00019

Crimes--Jurors--Jury instructions--Claim that trial court's instruction to the jury constructively amended the indictment, rendering it duplicitous; Multiple shots fired from two firearms; Continuing offense; Whether shell casings were properly admitted into evidence; Claimed ineffective assistance of counsel; Claimed excessive sentence.

THURSDAY, MARCH 26, 2015

ACA Financial Guaranty Corp. v Goldman, Sachs & Co. (Cal. No. 49)

APL-2014-00114

Fraud--Fraud in Inducement--Allegation that plaintiff was fraudulently induced to issue a financial guaranty for a portion of an investment by misrepresentation that a nonparty hedge fund was taking a long position in the investment when such fund actually was a short-seller--whether the Appellate Division erred in holding that the amended complaint failed to establish justifiable reliance as a matter of law because plaintiff did not plead that it "exercised due diligence by inquiring about the nonpublic information regarding the hedge fund with which it was in contract prior to issuing the financial guaranty, or that it inserted the appropriate prophylactic provision to ensure against the possibility of misrepresentation".

Doerr v Goldsmith (Cal. No. 17)

APL-2014-00032

Animals--Liability for injuries--Dog colliding with bicyclist--Negligence cause of action against dog's owner.

Dobinski v Lockhart (Cal. No. 66)

APL-2014-00290

Animals--Liability for injuries--Dog colliding with bicyclist--Existence of negligence cause of action against dog's owner--Whether the Appellate Division correctly dismissed cause of action for strict liability upon the ground that no triable issue of fact existed as to whether defendants had actual or constructive knowledge that their dog had a propensity to interfere with traffic.

Walton v Strong Memorial Hospital (Cal. No. 67)

APL-2014-00107

Limitation of actions--Medical malpractice--"Foreign object" exception (CPLR 214-a)--Failure to remove polyvinyl catheter from heart after surgery--Whether the Appellate Division erred in concluding that portion of polyvinyl catheter that broke off and remained in patient after all other catheters were removed was a fixation device and not a foreign object because the catheters were intentionally placed inside plaintiff's body to monitor atrial pressure for a few days after heart surgery.

People v Jafari Lamont (Cal. No. 68)

APL-2014-00072

Crimes--Evidence--Sufficiency of evidence--Attempted Robbery in the Second Degree--Whether evidence is sufficient to establish beyond a reasonable doubt defendant's intent to commit a robbery.