

CASE ISSUE STATEMENTS – APRIL 2023

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 homepage on the Court's website.

TUESDAY, APRIL 18

Gottwald v Sebert (No. 32)

APL-2022-82

Statutes—Retroactive Application of Statutes—Whether the legislature intended for its 2020 amendments to the anti-strategic lawsuit against public participation (anti-SLAPP) law (*see* Civil Rights Law §§ 70-a, 76-a) to apply retroactively to claims pending at the time the amendments became effective.

Gottwald v Sebert (No. 33)

APL-2021-131

Libel and Slander—Public Figure—Whether plaintiff Gottwald is a general or limited public figure; whether there is a “sham” exception to the litigation privilege, the pre-litigation privilege, or the privilege codified at Civil Rights Law § 74 and, if so, whether that exception applies.

Matter of St. Lawrence County v City of Ogdensburg (No. 43)

APL-2022-118

Municipal Corporations—Whether Ogdensburg Local Law 2-2021, which requires St. Lawrence County to enforce the City's delinquent taxes and make the City whole for uncollected City-levied taxes, is preempted by the Real Property Tax Law (RPTL) and not authorized by RPTL 936; whether the local law violates New York State Constitution, article IX, § 2(d) and Municipal Home Rule Law § 10(5); whether the County's challenge to the City's obligation to enforce delinquent taxes of the City School district was rendered moot.

People v Johnson (Tyquan) (No. 35)

APL 2022-116

Crimes—Unlawful Search and Seizure—Whether the arresting officer had the requisite predicate under *People v De Bour* (40 NY2d 210 [1976]) at each level of the encounter with defendant.

WEDNESDAY, APRIL 19

Scurry v NYCHA (No. 36)

APL 2022-41

Negligence—Maintenance of Premises—Whether defendant property owner's negligence was proximate cause of decedent's death and injuries to others; decedent killed in targeted attack at premises where front door lacked functioning door lock.

Estate of Murphy v NYCHA (No. 37)

APL-2021-179

Negligence—Maintenance of Premises—Whether defendant's negligence was a proximate cause of decedent's death; complaint alleged that defendant negligently maintained premises and provided inadequate security at building where decedent was shot and killed.

People v Saenger (Michael) (No. 38)

APL-2022-84

Crimes—Indictment—Whether indictment charging defendant with aggravated family offense (*see* Penal Law § 240.75) is jurisdictionally defective when it does not state the specified misdemeanor offense the defendant is accused of committing.

Matter of Lynch v City of New York (No. 39)

APL 2022-16

Civil Service—Retirement and Pension Benefits—Whether defendant City of New York wrongfully denied transfers, purchase, and buy-back of credit for prior service with a public employer to tier 3 members of the New York City Police Pension Fund; Proceeding Against Body or Officer—Conversion of Declaratory Judgment Action to Article 78 Proceeding.

THURSDAY, APRIL 20

Matter of Teamsters Local 445 v Town of Monroe (No. 40)

APL-2022-77

Arbitration—Collective Bargaining Agreement—Whether there is a statutory, constitutional, or public policy prohibition against arbitrating a dispute regarding the termination of an employee in an “exempt class” under Civil Service Law section 41(1)(c).

People v Reid (Dwight) (No. 41)

APL-2022-106

Crimes—Right to a Public Trial—Whether defendant was denied his constitutional right to a public trial when the trial court closed the courtroom midtrial to all spectators based on alleged intimidating behavior by certain spectators; Crimes—Right to Counsel—Effective Representation—Whether defendant was denied his right to effective representation as a result of counsel's failure to request replacement of a sworn juror.

People v Muhammad (Hanza) (No. 42)

APL-2022-141

Crimes—Right to a Public Trial—Whether defendant was denied right to a public trial when court officers prevented spectators from entering courtroom for testimony of key witness; court had a standing policy preventing anyone from entering or exiting courtroom during testimony; whether trial counsel's failure to object to standing policy constituted ineffective assistance of counsel; Crimes—Right to Counsel—Effective Representation—Whether defense counsel was ineffective for failing to impeach identification witness with prior statement; Crimes—Sentence—Whether consecutive sentencing was appropriate.