
This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 71 SSM 3
Kyreese L. Franklin,
Appellant,
v.
Carmen Rosa Gareyua, et al.,
Respondents.

Submitted by Matthew J. McMahon, for appellant.
Submitted by Matthew W. Naparty, for respondents.

* * * * *

On review of submissions pursuant to section 500.11 of the Rules,
order affirmed, with costs, and certified question answered in
the affirmative. The Appellate Division correctly concluded that
plaintiff failed to raise a triable issue of fact as to whether
he suffered a serious left shoulder injury within the meaning of
Insurance Law § 5102(d) as a result of the underlying motor
vehicle accident. Chief Judge DiFiore and Judges Rivera,
Abdus-Salaam, Stein, Fahey, Garcia and Wilson concur.

Decided March 23, 2017