

CASE ISSUE STATEMENTS – NOVEMBER 2019

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, NOVEMBER 19

Vanyo v Buffalo Police Benevolent Association et al.

APL-2018-00074

Limitation of Actions—Claim in Amended Pleading— Action by former police officer alleging improper termination following arbitration conducted pursuant to collective bargaining agreement; whether Supreme Court properly dismissed the first and second causes of action alleged in the amended complaint as time-barred; whether relation-back doctrine of CPL 203(f) applies to the first and second causes of action; Dismissal of Complaint—whether Supreme Court exceeded its authority in sua sponte dismissing original complaint with prejudice pursuant to CPLR 306-b; whether defendants waived any objection based upon lack of service of the original complaint.

Matter of Franklin Street Realty Corp. v NYC Environmental Control Board

APL-2018-00164

Municipal Corporations—Regulation of Billboards—Challenge to determinations of the New York City Environmental Control Board (ECB) which found that petitioners engaged in unauthorized outdoor advertising—buildings displaying signs promoting the law offices of the attorney shareholder of the corporate building owners—whether the ECB’s determinations are arbitrary and capricious or contrary to the plain language of the applicable sections of the City Administrative Code.

People v Ramee McCullum

APL 2018-137

Crimes—Possession of Weapon—Whether a defendant maintains a reasonable expectation of privacy in goods bailed as the result of a landlord’s “legal possession” of an apartment, sufficient to establish standing to challenge a search under the Fourth Amendment of the United States Constitution—whether, where the People and the court both commit an error of fact, the defendant is justified in relying on that error for purposes of preservation of an argument.

WEDNESDAY, NOVEMBER 20

People v David Mairena

APL-2018-00135

Crimes--Justification--Whether trial court erred by informing the parties, prior to summations, that it would instruct the jury on the specific instrumentality of death in its charge of

manslaughter in the first degree, and then failing to include that language in its charge following summations; whether harmless error applies to the alleged error.

People v Mauricio Altamirano

APL-2019-00030

Crimes—Instructions--Whether defendant was denied the right to a fair trial when the trial court provided the jury with a charge on the defense of temporary and innocent possession of a weapon without first informing counsel and without permitting counsel to reopen his summation; whether harmless error analysis applies.

People v Sixtus Udeke

APL-2018-00228

Crimes— Plea of Guilty —Whether guilty plea was knowing and voluntary where trial court told defendant during plea allocution that he would have no right to a jury trial if the prosecution proceeded on a B misdemeanor, and did not address the issue of a right to jury trial based on his immigrant status and possible deportation upon conviction; retroactivity of People v Suazo decided 11/27/18.

Centi v McGillin

APL-2018-00114

Contracts—Illegal Contracts—Dispute over money accumulated from illegal bookmaking business—whether loan agreement involving funds is enforceable.

THURSDAY, NOVEMBER 21

Matter of Plastic Surgery Group, P.C. v Comptroller of the State of New York

APL-2018-00167

Disclosure—Medical Records and Reports—Whether CPLR 3122(a)(2), which generally requires that a subpoena requesting the production of a patient's medical records be accompanied by a written authorization by the patient, applies to a subpoena duces tecum served by the Comptroller during the course of an audit of a medical provider.

People v Tyrell Cook

APL-2018-00184

Crimes—Suppression—Whether trial court properly reopened a suppression hearing, before rendering a decision, to permit the People to call an officer with additional information tending to establish reasonable suspicion for defendant's detention; Legal Sufficiency—whether the evidence was legally sufficient to establish that the victim suffered a physical injury; Right to a Fair Trial—whether defendant was denied his right to a fair trial based on alleged juror misconduct.

People v Clinton Britt

APL-2018-00139

Crimes—Possession of Forged Instrument—Defendant's possession of counterfeit bills in public—whether there was legally sufficient evidence of defendant's "intent to defraud, deceive

or injure another,” as required by Penal Law § 170.30 for criminal possession of a forged instrument in the first degree; suspect’s running away compared to “active flight”.