

Cumulative Table of Cases
Connecticut Appellate Reports
Volume 179

(Replaces Prior Cumulative Table)

American Eagle Federal Credit Union <i>v.</i> Shivers (Memorandum Decision)	902
Boykin <i>v.</i> State.	175
<i>Personal injury; defective highway; whether trial court improperly granted motion to dismiss for lack of subject matter jurisdiction; sovereign immunity; whether written notice of claim provided pursuant to state highway defect statute (§ 13a-144) was patently defective; whether notice of claim provided sufficient information as to cause of injury.</i>	
Brown <i>v.</i> Commissioner of Correction	358
<i>Habeas corpus; whether habeas court abused its discretion in denying petition for certification to appeal; claim that state violated petitioner's due process rights by suppressing material exculpatory evidence in violation of Brady v. Maryland (373 U.S. 83) when state allegedly failed to disclose to petitioner certain agreements with witnesses to bring their cooperation in petitioner's criminal trial to attention of court in their criminal proceedings; whether habeas court's finding that state disclosed agreements to petitioner prior to criminal trial was clearly erroneous; claim that state failed to disclose alleged agreements with witnesses to give them favorable treatment at bond hearings in exchange for their testimony; claim that state did not correct false testimony by witnesses at criminal trial; claim that petitioner's trial counsel was ineffective in failing to adequately cross-examine witnesses; whether petitioner demonstrated that he was prejudiced by failure of trial counsel to obtain transcripts of witnesses' bond hearings.</i>	
Bruno <i>v.</i> HSBC Bank USA, N.A. (Memorandum Decision).	902
Castelino <i>v.</i> Fairview Condominium Assn., Inc. (Memorandum Decision).	902
Cinotti <i>v.</i> Bacoulis (Memorandum Decision).	903
Colon <i>v.</i> Commissioner of Correction	30
<i>Habeas corpus; whether habeas court abused its discretion in denying petition for certification to appeal; whether habeas court abused its discretion in denying petition for writ of habeas corpus; claim that trial counsel rendered ineffective assistance by failing to adequately explain state's plea offer and by failing to oversee petitioner's cooperation with law enforcement in effort to reduce sentence; whether petitioner established that he was prejudiced by trial counsel's allegedly deficient performance.</i>	
Dean <i>v.</i> Kahn.	58
<i>Declaratory judgment; implied easement; whether there was sufficient evidence in record to support trial court's conclusion that implied easement existed over subject property in favor of plaintiff's property; whether trial court, on basis of circumstantial evidence presented, reasonably and logically could have inferred that parties to relevant conveyance intended to create implied easement and that easement was reasonably necessary for use and normal enjoyment of plaintiff's property; whether trial court improperly considered, as matter of law, evidence of use of subject property other than use that existed at or close to time of conveyance; whether fact that parties to relevant conveyance expressly set forth in deed common driveway and mutual boundary easements precluded trial court from finding existence of additional easement by implication.</i>	
DeJesus <i>v.</i> Commissioner of Correction (Memorandum Decision)	902
Deutsche Bank National Trust Co., Trustee <i>v.</i> Savvoulides (Memorandum Decision) . . .	901
Doyle <i>v.</i> Aspen Dental of Southern CT, PC	485
<i>Dental malpractice; motion to dismiss for lack of personal jurisdiction; whether opinion letter of similar health care provider was legally insufficient under statute (§§ 52-190a [a] and 52-184c) where author of opinion letter was not board certified, trained and experienced in same specialty as defendant oral surgeon; claim that plaintiff could rely solely on website of Department of Public Health to determine dentist's credentials as evidence of good faith effort to attach opinion letter by similar health care provider.</i>	

Doyle v. Universal Underwriters Ins. Co.	9
<i>Underinsured motorist benefits; whether trial court properly rendered summary judgment and determined that doctrine of collateral estoppel barred relitigation of amount of damages awarded to plaintiff in binding arbitration proceeding; whether issue of total compensatory damages resulting from motor vehicle collision was actually litigated and necessarily determined in prior binding arbitration proceeding.</i>	
Estela v. Bristol Hospital, Inc.	196
<i>Accidental failure of suit statute (§ 52-592 [a]); whether trial court abused its discretion in determining applicability of § 52-592 (a); whether it was proper for trial court to address applicability of § 52-592 (a) through motion to bifurcate; claim that defendant waived right to challenge applicability of § 52-592 (a) by failing to previously raise statute of limitations as special defense; whether trial court applied correct standard in determining applicability of § 52-592 (a) to present action; whether trial court's findings as to conduct that led to judgment of nonsuit in prior action were clearly erroneous; reviewability of claim that § 52-592 (a) applies to any judgment of nonsuit.</i>	
Fagan v. Stamford	440
<i>Pensions; whether board acted arbitrarily, capriciously, or in abuse of its discretion in approving 50 percent disability pension to plaintiff pursuant to city's charter; whether record contained substantial evidence to support board's determination that plaintiff did not meet requirements for enhanced disability pension under collective bargaining agreement; whether board acted arbitrarily, capriciously, or in abuse of its discretion in denying request for board to reconsider plaintiff's application for 75 percent disability pension under collective bargaining agreement.</i>	
Finney v. Cameron's Auto Towing Repair	301
<i>Contracts; whether trial court properly determined that defendant was entitled to summary judgment on complaint; whether defendant established that there was no genuine issue of material fact as to its right to prevail on claim that it breached contract to repair plaintiff's vehicle and that unpaid storage fees that accrued resulted from its delay in giving plaintiff estimate of cost to repair vehicle; whether trial court erred in granting motion for summary judgment in favor of defendant on its counterclaim; whether defendant failed to state any basis on which it was entitled to judgment on counterclaim</i>	
Gamble v. Commissioner of Correction	285
<i>Habeas corpus; claim that appellate counsel provided ineffective assistance by failing to raise claim of insufficient evidence on direct appeal; whether habeas court properly concluded that petitioner failed to prove that he was prejudiced by performance of appellate counsel; whether it was reasonably probable that petitioner would have prevailed on sufficiency of evidence claim on direct appeal; whether there was sufficient evidence to support petitioner's conviction of manslaughter as accessory under concert of action theory; whether there is meaningful distinction between principal and accessorial liability as matter of law; claim that evidence supported only conviction as principal shooter and not as accessory; whether doctrine of collateral estoppel applied to review of sufficiency of evidence; whether petitioner's acquittals on other charges precluded court from examining all evidence presented at trial; inconsistent verdicts.</i>	
Heredia v. Commissioner of Correction (Memorandum Decision)	906
HSBC Bank USA, N.A. v. Bliss (Memorandum Decision)	904
JPMorgan Chase Bank, N.A. v. Porzio (Memorandum Decision)	903
Lane v. Cashman	394
<i>Zoning; whether trial court improperly struck revised third special defense alleging that defendants had legally protected nonconforming right to use their property as farm; claim that question of whether any constitutionally protected nonconforming use of property existed was beyond scope of zoning board and, thus, constituted exception to exhaustion doctrine that permitted defendants to bypass available administrative relief; claim that trial court improperly granted motions to preclude certain evidence; failure of defendants to adequately analyze how trial court rulings granting motions to preclude certain evidence likely affected result of trial.</i>	
Northeast Family Federal Credit Union v. Jean (Memorandum Decision)	904

PHH Mortgage Corp. v. Stock (Memorandum Decision) 905

Pettiford v. State. 246

Negligence; comparative negligence; claim that plaintiff was entitled to new trial because trial court's comparative negligence calculus rested on its erroneous determination that unmarked crosswalk did not exist in area where plaintiff was struck by defendant's vehicle; construction of statutory (§ 14-297 [2]) definition of crosswalk; whether plaintiff failed to demonstrate how claimed error regarding unmarked crosswalk would have altered court's judgment; whether trial court should have rendered judgment on merits rather than dismissed action.

Recycling, Inc. v. Commissioner of Energy & Environmental Protection 127

Administrative appeal; whether trial court improperly dismissed administrative appeal from decision by defendant Commissioner of Energy and Environmental Protection denying application for individual recycling permit and revoking general permit to operate recycling facility; whether substantial evidence supported hearing officer's finding of pattern or practice of noncompliance by plaintiff with permit requirements, in violation of statute (§ 22a-6m [a]), so as to warrant revocation of general permit registration and denial of application for individual permit; claim that denial of permit application was not warranted even if plaintiff's compliance history demonstrated pattern of noncompliance; whether it was abuse of discretion to deny permit application and revoke general permit registration; claim that trial court improperly upheld defendant's decision because hearing officer failed to apply correct standard of review; claim that hearing officer abused discretion by excluding evidence of prior enforcement actions by Department of Energy and Environmental Protection against other waste facilities; whether trial court's finding that there was no bias on part of administrative adjudicators was clearly erroneous; whether plaintiff overcame presumption that administrative agents acting in adjudicative capacity are not biased.

Smith v. Commissioner of Correction. 160

Habeas corpus; ineffective assistance of counsel; pretrial confinement credit; claim that habeas court abused its discretion in denying petition for certification to appeal; whether petitioner failed to meet his burden of proving that there was reasonable probability that, but for trial counsel's allegedly deficient performance during plea proceeding, he would not have accepted plea offer and instead would have gone to trial.

Stack v. Hartford Distributors, Inc. 22

Arbitration; whether trial court properly rendered judgment granting application for order to proceed to arbitration regarding termination of plaintiff's employment; claim that termination of plaintiff's employment did not involve dispute arising out of interpretation or enforcement of parties' employment agreement and, therefore, that arbitration provision contained in that agreement was not applicable; claim that employment contract was void and unenforceable; whether issue of validity of employment contract should be considered by arbitrator in first instance where party did not challenge arbitration clause in employment agreement.

Stanley v. State's Attorney (Memorandum Decision) 901

State v. Andrews (Memorandum Decision) 903

State v. Brown 337

Possession of more than four ounces of marijuana; subject matter jurisdiction; whether trial court lacked jurisdiction to consider merits of petition for writ of error coram nobis; whether trial court improperly denied petition and, instead, should have rendered judgment dismissing petition; whether defendant had prior alternative legal remedies available to him regarding ineffective assistance of counsel claim.

State v. Bush 108

Sale of narcotics; sale of narcotics within 1500 feet of school; conspiracy to sell narcotics; whether trial court abused its discretion when it failed to grant defendant's request to represent himself and suggested that his trial counsel continue to represent him through voir dire; claim that jury was misled by trial court's instructions on conspiracy charge; claim that trial court failed to instruct jury on elements of possession of narcotics and possession of narcotics with intent to sell; claim that trial court failed to instruct jury to determine which of underlying charged crimes defendant had conspired to commit; whether trial court improperly sentenced defendant to twenty years incarceration on conspiracy conviction, where most serious crime of which he was convicted that was proved to have

	<i>been object of conspiracy carried maximum possible prison sentence of fifteen years; vacation of sentence on conspiracy conviction.</i>	
State v. Esquilin		461
	<i>Violation of probation; reviewability of unpreserved claim that trial court violated defendant's right to due process by admitting drug test reports into evidence without requiring state to introduce results through testimony of analysts who performed testing; whether defendant provided adequate record for review of unpreserved claim where record was silent as to state's reasons for not producing drug test analysts as witnesses at probation revocation hearing; whether state had notice of due process claim not raised at trial.</i>	
State v. Fernandez (Memorandum Decision)		905
State v. Fulcher (Memorandum Decision)		905
State v. Grant		81
	<i>Manlaughter in first degree with firearm; assault in first degree; harmless error; claim that trial court abused its discretion in admitting certain witness' testimony and portions of defendant's statements to police indicating that defendant was involved in sale of drugs; whether admission of subject evidence was harmless; whether defendant demonstrated that admission of subject evidence had significant impact on jury's verdict; claim that trial court abused its discretion in permitting state to elicit testimony from witness that he had observed defendant carrying firearm on prior occasion; whether any alleged error in admission of witness' statement was harmless.</i>	
State v. Jackson		40
	<i>Assault in first degree; tampering with witness; claim that evidence was insufficient to prove defendant's identity as perpetrator of stabbing to support conviction of assault in first degree; claim that evidence was insufficient to support conviction of tampering with witness; whether trial court reasonably could have found that defendant attempted to induce witness to testify falsely; claim that trial court improperly denied motion to dismiss tampering with witness charges; claim that state violated separation of powers doctrine when it added witness tampering charges to substitute information without judicial determination as to whether probable cause existed for added offenses; reviewability of unpreserved claim that trial court violated defendant's sixth amendment right to confrontation and abused its discretion when it prevented him from asking witness certain questions on recross-examination.</i>	
State v. Jin		185
	<i>Conspiracy to commit burglary in third degree; whether trial court lacked jurisdiction to consider motion to open judgment of conviction following imposition of sentence; reviewability of claims that trial court improperly denied application for accelerated rehabilitation program and that trial court erred in determining that defendant received effective assistance of counsel; reviewability of unpreserved claim that trial court had jurisdiction to correct imposition of illegal sentence pursuant to applicable rule of practice (§ 43-22) where defendant did not file motion to correct illegal sentence.</i>	
State v. Lebrick		221
	<i>Felony murder; home invasion; conspiracy to commit home invasion; burglary in first degree; attempt to commit robbery in first degree; assault in first degree; claim that former testimony of witness was inadmissible hearsay because it did not fall within exception to hearsay rule set forth in § 8-6 (1) of Connecticut Code of Evidence; claim that state failed to establish that witness was unavailable; whether state demonstrated that it made good faith effort to locate witness; claim that admission of witness' former testimony violated defendant's rights under confrontation clause of sixth amendment to United States constitution; claim that trial court improperly admitted testimony of firearm and tool mark expert in violation of § 4-1 of Connecticut Code of Evidence because state failed to establish relevancy of his testimony by providing sufficient evidentiary foundation that photographs, report, and notes relied on by expert were associated with crimes at issue in present case; claim that defendant's right to confrontation was implicated by admission of expert's opinion testimony where expert's opinion was formulated in part on basis of his review of ballistic report prepared by former employee of state's forensic laboratory who was not available to testify at trial.</i>	
State v. Manousos		310
	<i>Arson in first degree; whether trial court improperly denied motions to suppress statements defendant made to police and items police seized during investigatory</i>	

stop and patdown for weapons; claim that police lacked reasonable and articulable suspicion that defendant was involved in criminal activity; claim that patdown of defendant for weapons was improper because totality of circumstances did not support trial court's finding that police reasonably believed that defendant may have been armed and dangerous; whether propriety of investigatory stop and subsequent patdown made it reasonable for police to enlarge scope of search by seizing items defendant was carrying; whether trial court abused its discretion by compelling defendant to disclose to state prior to trial substance of opinions of expert witness; claim that court's actions impaired defendant's ability to present defense and diluted right to assistance of counsel.

State v. Montana 261

Sexual assault in first degree; risk of injury to child; whether state presented sufficient evidence to support conviction of sexual assault in first degree and risk of injury to child; credibility of witnesses; whether trial court abused its discretion in excluding third-party culpability evidence proffered by defendant.

State v. Mukhtaar 1

Murder; claim that trial court abused its discretion in denying motions to correct illegal sentence and to allow expert witness to testify; claim that defendant's chronological age at time of crime was not representative of mental age; claim that trial court should have applied rationale of Miller v. Alabama (567 U.S. 460) and its progeny to adult defendant whose mental age, at time of crime, was not substantially different from that of juvenile; whether trial court was required under Miller necessarily and expressly to take defendant's mental state into consideration at sentencing where defendant was twenty years old at time of crime; whether defendant set forth colorable claim for relief under Miller; whether trial court lacked subject matter jurisdiction over motion to correct illegal sentence; whether trial court properly denied motion to allow expert testimony.

State v. Outlaw 345

Assault of public safety personnel; plain error; whether defendant explicitly waived claim that trial court failed to give detailed instruction concerning whether correction officer was acting in performance of duties in alleged use of unnecessary or unreasonable force; whether defendant demonstrated that trial court committed plain error by failing to instruct jury that unwarranted or excessive force by correction officer was not within performance of officer's duties.

State v. Stanley (Memorandum Decision) 901

State v. Tucker 270

Probation; assault in third degree; claim that trial court erred in admitting 911 recording into evidence; claim that trial court erroneously found that defendant violated probation; claim that trial court abused its discretion in imposing sentence of three years incarceration; whether trial court properly overruled objection to admission of 911 recording that was based on lack of foundation for recording; whether trial court properly authenticated 911 recording; whether defendant sustained burden of providing adequate record to review claim of due process violation; whether admission of recording constituted plain error; whether trial court properly found that defendant violated probation; whether trial court abused its discretion in revoking defendant's probation.

State v. Vivo (Memorandum Decision) 906

Tirado v. Torrington 95

Allegedly improper tax assessment of plaintiff's motor vehicle; subject matter jurisdiction; whether trial court properly dismissed plaintiff's action for lack of subject matter jurisdiction; whether trial court incorrectly determined that statute (§ 12-119) governing applications for relief when property has been wrongfully assessed applied to plaintiff's claim; whether trial court correctly determined that statute (§ 12-117a) governing appeals to Superior Court from municipal boards of assessment appeals applied to plaintiff's claim; whether plaintiff failed to exhaust her available administrative remedies before appealing to Superior Court; claim that plaintiff did not receive notice of defendant's certificate of change and tax assessment in time to challenge assessment.

U.S. Bank National Assn. v. Christophersen 378

Foreclosure; standing; whether plaintiff had standing to commence foreclosure action; whether plaintiff was holder of subject note and entitled to enforce it at time action was commenced; claim that trial court denied defendant's right to due process and abused its discretion by relying on plaintiff's affidavit of debt in rendering modified judgment of strict foreclosure; whether court failed to consider defendant's concerns over amount of debt; claim that trial court abused

its discretion in denying motion for continuance; whether court erred in failing to rule on request for judgment of foreclosure by sale; whether court improperly concluded that it lacked authority pursuant to statute (§ 49-15 [b]) to modify judgment; whether § 49-15 (a) (1) conferred authority on court to modify judgment.

Valley National Bank v. Private Transerve, LLC 479

Foreclosure; breach of personal guarantees; claim that plaintiff bank did not have standing; claim that genuine issue of material fact existed as to whether plaintiff owned debt when action was commenced; unpreserved claim that action was initiated under improper corporate name; whether defendants established that certain evidentiary rulings at hearing in damages relied on clearly erroneous factual findings or that trial court abused its discretion in granting plaintiff permission to file amended complaint.

Walsh Fence, LLC v. Dolceaqua (Memorandum Decision). 904