

SUPREME COURT PENDING CASES

The following appeals are fully briefed and eligible for assignment by the Supreme Court in the near future.

STATE *v.* LAMONT EDWARDS, SC 19899
Judicial District of New Haven

Criminal; Murder; Whether Trial Court Improperly Admitted Hearsay Evidence; Whether Trial Court Improperly Admitted Testimonial Hearsay in Violation of Defendant's Right to Confrontation; Whether Third Party Culpability Instruction Wrongly Omitted Names of Potential Third Party Culprits. The defendant was convicted of murder and assault in the first degree in connection with an incident in which two men opened fire on a car stopped at a New Haven street corner, killing one man and injuring two others. The defendant appeals from his conviction. He claims that the trial court improperly admitted hearsay evidence, through the testimony of a police officer, that two witnesses, Tora Moss and Matthew Mitchell, made out-of-court statements identifying the defendant as one of the shooters. The defendant acknowledges that Sec. 8-5 (2) of the Connecticut Code of Evidence provides that the hearsay rule does not preclude admission of an identification made by a declarant prior to trial where the identification is reliable and where the declarant is available for cross-examination at trial, but he argues that the state failed to show that either of the identifications was reliable and that he never had a meaningful opportunity to cross-examine the witnesses concerning the circumstances under which their identifications were made. The defendant also argues that the admission of Moss' out-of-court identification violated his right to confrontation where, because the state did not call Moss to testify at trial, he had no opportunity to cross-examine Moss as to the circumstances and reliability of his identification. Finally, the defendant argues that the trial court erred in instructing the jury as to third party culpability. He contends that the instruction wrongly omitted the names of two potential third party culprits.

STATE *v.* ANGEL M., SC 20106
Judicial District of Hartford

Criminal; Sentencing; Whether Defendant Penalized for Maintaining his Innocence at Sentencing Hearing; Whether Consideration of Defendant's Refusal to Admit Guilt Violates Right Against Self-Incrimination. The defendant was convicted of charges of sexual assault and risk of injury to a child arising out of his alleged

sexual abuse of the minor victim, his stepdaughter. He appealed, claiming that the trial court improperly increased his sentence to penalize him for invoking his fifth amendment privilege against self-incrimination when, at the sentencing hearing, he protested his innocence and refused to apologize to the victims. The Appellate Court (180 Conn. App. 250) rejected that claim and affirmed the defendant's conviction, finding that the trial court had not punished the defendant for exercising his rights against self-incrimination. The Appellate Court noted that, in *State v. Huey*, 199 Conn. 121, 128 (1986), the Supreme Court held that a sentencing judge was justified in considering the defendant's denial of his guilt in evaluating his prospects for rehabilitation, one of the factors to be properly considered in fashioning a sentence. The Supreme Court granted the defendant certification to appeal, and it will consider (1) whether the Appellate Court properly concluded that the trial court did not penalize the defendant for maintaining his innocence at the sentencing hearing, and (2) whether *State v. Huey* should be overruled because consideration of a defendant's refusal to admit guilt for any purpose at sentencing violates a defendant's right against self-incrimination.

The Practice Book Section 70-9 (a) presumption in favor of coverage by cameras and electronic media does not apply to the case above.

The summaries appearing here are not intended to represent a comprehensive statement of the facts of the case, nor an exhaustive inventory of issues raised on appeal. These summaries are prepared by the Staff Attorneys' Office for the convenience of the bar. They in no way indicate the Supreme Court's view of the factual or legal aspects of the appeal.

*John DeMeo
Chief Staff Attorney*
