COURT OF APPEALS NEW FILINGS

Preliminary Appeal Statements processed
by the Court of Appeals Clerk's Office

April 14, 2017 through April 20, 2017

Each week the Clerk's Office prepares a list of recently-filed appeals, indicating short title, jurisdictional predicate, subject matter and key issues. Some of these appeals may not reach decision on the merits because of dismissal, on motion or sua sponte, or because the parties stipulate to withdrawal. Some appeals may be selected for review pursuant to the alternative procedure of Rule 500.11. For those appeals that proceed to briefing in the normal course, the briefing schedule generally will be: appellant's brief to be filed within 60 days after the appeal was taken; respondent's brief to be filed within 45 days after the due date for the filing of appellant's brief; and a reply brief, if any, to be filed within 15 days after the due date for the filing of respondent's brief.

The Court welcomes motions for amicus curiae participation from those qualified and interested in the subject matter of these newly filed appeals. Please refer to Rule 500.23 and direct any questions to the Clerk's Office.

COVINGTON, MATTER OF v FISCHER &c.:
4TH Dept. App. Div. order of 2/28/17; dismissal; sua sponte examination whether the order appealed from finally determines the proceeding within the meaning of the Constitution and whether a substantial constitutional question is directly involved to support an appeal as of right;
Dismissal and Nonsuit--Motion to vacate dismissal; proceeding against body or officer;
Supreme Court, Seneca County, transferred the proceeding to the Appellate Division, Fourth Department; App. Div. dismissed as untimely petitioner's motion to vacate the dismissal of his CPLR article 78 proceeding.

KISLOWSKI (JOSEPH W.), PEOPLE v:
3RD Dept. App. Div. order of 12/8/16; affirmance with dissents; leave to appeal granted by Lynch, J., 3/3/17; Rule 500.11 review pending;
Crimes--Sentence--Probation--Sufficiency of evidence to support finding that defendant violated terms of his probation by associating with a convicted criminal--on approximately four occasions defendant contacted his former girlfriend and went to her apartment to pick up and walk the dog they once shared--whether evidence was sufficient to establish defendant's "association" with his former girlfriend and his awareness that she had been convicted of a crime; challenge to facial sufficiency of the amended violation petition;
County Court, Warren County, among other things, revoked defendant's probation and sentenced him to time served; App. Div. affirmed.

THOMPSON, MATTER OF v VANCE, et al.:
1ST Dept. App. Div. order of 4/14/17; denial of application; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;
Proceeding against Body or Officer--Prohibition-- Whether remedy of prohibition is available to enjoin a criminal court from proceeding on an indictment where it is alleged that the court lacks geographic jurisdiction; claimed violations of Article I §§ 2, 6 and 11 and Article III, § 2 of the New York State Constitution; claimed Sixth Amendment violation;
App. Div. denied the application pursuant to CPLR article 78 for a writ of prohibition barring any further proceedings against petitioner under New York County Indictment No. 3853/14, and dismissed the petition.