COURT OF APPEALS NEW FILINGS

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

September 22, 2017 through September 28, 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.

TOWN OF AURORA &c. v VILLAGE OF EAST AURORA, &c.:
4TH Dept. App. Div. order of 4/28/17; reversal; leave to appeal granted by Court of Appeals, 9/12/17;
Bridges--Maintenance--Whether Town of Aurora or Village of East Aurora is responsible for the costs of repairing a bridge constructed and maintained by the Village; Village board of trustees never adopted resolution assuming care, control and maintenance of the bridge; application of Village Law §§ 6-604, 6-606;
Supreme Court, Erie County, denied plaintiff's motion for summary judgment, granted defendant's cross motion for summary judgment, dismissed the complaint, and declared that plaintiff is responsible for the expense of repairing the Brooklea Drive bridge in the Village of East Aurora and any other bridge in the

Village of which defendant Town of Aurora has not assumed control, care and maintenance; App. Div. reversed, reinstated the complaint, granted the plaintiff's motion, denied the defendant's cross motion, and granted judgment in favor of plaintiff to the extent of adjudging and declaring that the Village of East Aurora is responsible for the supervision, control, care and maintenance of the Brooklea Drive bridge located within its boundaries.

BAISLEY (STEVEN), PEOPLE v:
App. Term, 9th and 10th Judicial Districts, order of 5/23/17; reversal; leave to appeal granted by Stein, J., 9/11/17; Courts--Jurisdiction--Whether a local criminal court has jurisdiction over charges of nonsupport of a child in the second degree (Penal Law § 260.05[2]) and criminal contempt in the second degree (Penal Law § 215.30[3]); criminal contempt charge based on defendant's failure to obey a Family Court order of child support; application of Family Court Act §§ 156, 411; Justice Court of the Village of Goshen granted defendant's motion to dismiss the accusatory instrument; App. Term reversed and denied the motion to dismiss the accusatory instrument.

BROWN, MATTER OF v VELEZ, &c., et al.:
2ND Dept. App. Div. order of 8/2/17; confirmation of determination; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;
Social Services--Register of Child Abuse and Maltreatment--Whether hearsay evidence was erroneously admitted at administrative expungement hearing; alleged violations of petitioner's due process rights and right to confront witnesses against him;
Supreme Court, Westchester County, transferred to the Appellate Division, Second Department, a CPLR article 78 proceeding seeking to review a 10/14/14 determination of the New York State Office of Children and Family Services that denied petitioner's application to amend and seal an indicated report maintained by the New York State Central Register of Child Abuse and Maltreatment; App. Div. confirmed the determination, denied the petition and dismissed the CPLR article 78 proceeding.

CLARK, PEOPLE ex rel. v TEDFORD, &c.:
3RD Dept. App. Div. order of 7/21/17; denial of application; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right and whether any other jurisdictional basis exists for an appeal as of right;
Habeas Corpus--Availability of relief--alleged due process violations regarding parole board appearance;
App. Div. denied application for writ of habeas corpus.

LAITY, MATTER OF v STATE OF NEW YORK, et al.:
3RD Dept. App. Div. order of 8/10/17; affirmance; sua sponte examination whether the issues presented have become moot and whether a substantial constitutional question is directly involved to support an appeal as of right;
Elections--Designating petitions--Proceeding to declare invalid the certificate of designation naming certain persons as Republican Party candidates for the office of President of the United States in the 2016 presidential primary election; eligibility for office based on place of birth;
Supreme Court, Albany County, dismissed petitioner's application in a proceeding pursuant to Election Law § 16-102, to, among other things, declare invalid the certificate of designation naming respondent Rafael Edward (Ted) Cruz as a Republican Party candidate for the public office of President of the United States in the 4/19/16 presidential primary election; App. Div. affirmed.

STATE OF NEW YORK, MATTER OF v KEITH F.:
1ST Dept. App. Div. order of 4/27/17; affirmance; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;
Crimes--Sex Offenders--Sex Offender Management and Treatment Act--Whether Mental Hygiene Law § 10.07(a) imposes a strict deadline for commencement of a trial within 60 days after the court determines there is probable cause to believe that the respondent is a sex offender requiring civil management; whether respondent's due process rights were violated by the 15-month delay between the declaration of readiness and the commencement of trial, during which time respondent was subject to mandatory pretrial detention;
Supreme Court, Bronx County, upon a determination that respondent is a dangerous sex offender requiring commitment, committed respondent to a secure treatment facility; App. Div. affirmed.

THOMAS, MATTER OF v TOWN OF OYSTER BAY, et al.:
2ND Dept. App. Div. order of 7/26/17; affirmance; 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 prohibition lies to prohibit prosecution for violations of the Code of the Town of Oyster Bay; claim of racially-based selective prosecution;
Supreme Court, Nassau County, granted that branch of the motion of respondents Town of Oyster Bay and John Venditto pursuant to CPLR 3211(a) to dismiss the petition as procedurally barred, denied the petition, and dismissed the proceeding; App. Div. affirmed.