



*State of New York
Court of Appeals*

Vol. 43 - No. 43
11/03/23

*Lisa Le Cours
Chief Clerk and
Legal Counsel to the Court*

*Clerk's Office
20 Eagle Street
Albany, New York 12207-1095*

COURT OF APPEALS NEW FILINGS

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

October 27, 2023 through November 2, 2023

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.

ARMWOOD v STATE OF NY:

2nd Dept. App. Div. order of 8/30/23; dismissal;

Negligence—Negligent Supervision—Whether the Appellate Division properly granted summary judgment for the State on plaintiff's claim to recover damages for personal injuries, alleging that the State was negligent in its supervision of inmates; Court of Claims denied defendant's motion for summary judgment dismissing the claim, App. Div., with two Justices dissenting, reversed and granted defendant's motion for summary judgment dismissing the claim.

BROWN (JASON), PEOPLE v.:

1st Dept. App. Term order of 6/30/23; affirmance; leave to appeal granted by Garcia, J., 9/27/23;

Crimes—Unlawful Search and Seizure—Whether public safety concerns justified

automobile stop in the absence of a traffic violation;

New York City Criminal Court, Bronx County, convicted defendant, upon a plea of guilty, of disorderly conduct and imposed sentence; App. Div. affirmed.

MATTER OF ELIZABETH STREET v CITY OF NY:

1st Dept. App. Div. order of 6/27/23; modification; leave to appeal granted by the Appellate Division, 9/28/23;

Environmental Conservation—Environmental Quality Review—Whether respondent New York City Department of Housing and Preservation identified areas of environmental concern, took a hard look at them, and made a reasoned elaboration of the basis for its determination;

Supreme Court, New York County, inter alia, granted the petition to annul the November 9, 2018 negative declaration of respondent New York City Department of Housing Preservation and Development (HPD) as arbitrary and capricious insofar as it found under the State Environmental Quality Review Act (SEQRA) (ECL art 8) that a proposed low-income senior housing development would not significantly impact open space resources, and remanded for further proceedings; and dismissed petitioners' claims that HPD's negative declaration was affected by an error of law in that the proposed project would violate zoning regulations, respondents New York City Planning Commission (CPC) and New York City Council (Council) failed to comply with zoning regulations in conducting the uniform land use review process (ULURP), and HPD failed to take a hard look at zoning, neighborhood character, public policy, and cumulative impact when issuing the negative declaration; Supreme Court, New York County, inter alia, granted the petition to annul the same November 9, 2018 negative declaration of HPD as arbitrary and capricious, on the same grounds; App. Div. (1) modified the 11/1/22 order, denied the petition in its entirety, confirmed the negative declaration, and dismissed the CPLR article 78 proceeding, and (2) reversed the 11/16/22 order, denied the petition in its entirety, confirmed the negative declaration and dismissed the proceeding brought pursuant to CPLR articles 30 and 78.

MATTER OF WEISS v PILEWSKI:

2nd Dept. App. Div. order of 9/13/23; dismissal; sua sponte examination of whether a substantial constitutional question is directly involved to support an appeal as of right;

Proceeding Against a Body or Officer—Whether the Appellate Division properly denied the petition and dismissed the proceeding; alleged constitutional violations;

App. Div. in a proceeding pursuant to CPLR article 78, among other things, in the nature of mandamus to compel respondent Steven A. Pilewski, an Acting Justice of the Supreme Court, to accept and determine a motion, denied the petition and dismissed the proceeding.