

COURT OF APPEALS NEW FILINGS

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

December 8, 2017 through December 14, 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.

ELLIS, MATTER OF v CAWLEY, &c., et al.:

3RD Dept. App. Div. order of 10/26/17; dismissal; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right; Proceeding against Body or Officer--Prohibition--CPLR article 78 proceeding to prohibit respondents from retrying petitioner on double jeopardy grounds, after defense motion for a mistrial granted in the first prosecution of petitioner on various charges arising out of a violent home invasion--during pendency of article 78 proceeding, petitioner was retried and convicted of all charges in the indictment; mootness; App. Div., in a CPLR article 78 proceeding, dismissed the petition as moot.

MATTER OF BEATRICE R.H. (ANONYMOUS) (A.D. NO. 2014-10563):

2ND Dept. App. Div. order of 10/20/17; denial of reargument; 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;
Appeal--Appellate Division--Reargument of appeal;
App. Div. denied appellant's motion for, among other things, leave to reargue an appeal from a 9/5/14 Supreme Court, Nassau County, order, which was determined by a 9/16/15 order of the same App. Div.

MATTER OF BEATRICE R.H. (ANONYMOUS) (A.D. NO. 2014-07498):

2ND Dept. App. Div. order of 10/20/17; denial of reargument; 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;
Appeal--Appellate Division--Reargument of appeal;
App. Div. denied appellant's motion for, among other things, leave to reargue an appeal from a 7/7/14 Supreme Court, Nassau County, order, which was determined by a 9/16/15 order of the same App. Div.

MATTER OF BEATRICE R.H. (ANONYMOUS) (A.D. NO. 2014-00155):

2ND Dept. App. Div. order of 10/20/17; denial of reargument; 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;
Appeal--Appellate Division--Reargument of appeal;
App. Div. denied appellant's motion for, among other things, leave to reargue an appeal from a 11/18/15 Supreme Court, Nassau County, order, which was determined by a 6/8/16 order of the same App. Div.

WRIGHT, MATTER OF v NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION et al.:

3RD Dept. App. Div. order of 11/2/17; affirmance; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;
Prisons and Prisoners--Discipline of Inmates--Whether disciplinary hearing was conducted in a timely manner; whether respondent failed to disclose material evidence to petitioner; Supreme Court, Chemung County, dismissed petitioner's application, in a proceeding pursuant to CPLR article 78, to review a determination of respondent Superintendent of Elmira Correctional Facility finding petitioner guilty of violating certain prison disciplinary rules; App. Div. affirmed.