State of New York
Court of Appeals

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Chief Clerk and
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Clerk's Office
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COURT OF APPEALS NEW FILINGS

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

December 29, 2023 through January 4, 2024

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.

STATE OF NEW YORK v KERRY K.:
2nd Dept. App. Div. order of 12/6/23; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved in the December 2023 Appellate Division order appealed from to support an appeal as of right; insofar as review is sought of the September 2020 Appellate Division order, whether the issues presented have been rendered moot, whether the September 2020 order necessarily affects the December 2023 order, and whether a substantial constitutional question is directly involved in the September 2020 order; and insofar as review is sought of the December 2017 Appellate Division order, whether the December 2017 order necessarily affects the December 2023 order and whether a substantial constitutional question is directly involved in the December 2017 order;
Crimes—Sex Offenders—Whether Mental Hygiene Law § 10.06(k) is unconstitutional as applied to Kerry K.; whether Kerry K. was denied due process

when he was re-confined pending a retrial and his re-confinement was predicated on a prior pretrial finding of probable cause; whether Kerry K. was denied due process when the State failed to prosecute the initial Mental Hygiene Law article 10 petition within the statutory timeframes; whether Kerry K. was denied his right to confrontation when Supreme Court permitted testimony about statements related to dismissed 1979 charges and the complaining witness was not made available for cross-examination; whether Kerry K. was denied due process when Supreme Court permitted testimony about allegations related to dismissed 1979 charges that did not result in a conviction or indictment;

Supreme Court, Suffolk County, in a proceeding pursuant to Mental Hygiene Law article 10 for the civil management of Kerry K., a sex offender allegedly requiring civil management, upon a finding, made after a nonjury trial, that Kerry K. suffers from a mental abnormality as defined in Mental Hygiene Law § 10.03(i), and upon a determination, made after a dispositional hearing, that he is a dangerous sex offender requiring civil confinement, granted the petition and directed that he be committed to a security treatment facility for care, treatment, and control until such time as he no longer requires confinement; App. Div. affirmed.