

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
July 26, 2002 through August 1, 2002

A list of appeals with short title, jurisdictional predicate, subject matter and key issues is prepared each week.

Some of these filed appeals may never reach decision on the merits because of dismissal on motion, sua sponte, or for time deficiencies or because of stipulated withdrawals by the parties. Also, some counsel fail to file timely jurisdictional statements and thus the list should not be treated as comprehensive for any particular week.

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 Court Rule 500.11 and direct any questions to the Clerk's Office.

For July 26, 2002 through August 1, 2002 the following jurisdictional statements for appeals were filed:

BODDIE, MATTER OF, v NEW YORK STATE DIVISION OF PAROLE, et al.:
3rd Dept. App. Div. orders of 03/26/02 (affirmance) and 07/11/02 (reargument denied); sua sponte examination of whether a substantial constitutional question is directly involved and whether the order dated 07/11/02 is final;
ADMINISTRATIVE LAW - PAROLE; FAILURE TO DELAY PAROLE HEARING PENDING RECEIPT OF CORRECTED PRESENTENCE REPORT; CIVIL PROCEDURE; ARTICLE 78 PROCEEDINGS - FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES;
Supreme Court, Albany County, granted respondents' motion to dismiss the petition for failure to exhaust administrative remedies; App. Div. affirmed and subsequently denied appellant's motion for reargument.

CAMPAIGN FOR FISCAL EQUITY, INC., et al. v THE STATE OF NEW YORK, et al.:

1st Dept. App. Div. order of 06/25/02; reversal with dissent; sua sponte examination of whether a substantial constitutional question is directly involved; EDUCATION; VALIDITY OF STATE'S EDUCATIONAL FUNDING SYSTEM UNDER THE EDUCATION ARTICLE (NEW YORK STATE CONSTITUTION ARTICLE XI, SECTION 1); Supreme Court, New York County, declared that the State's method of funding education violates the State Constitution; App. Div. reversed and declared that the funding system does not violate the State Constitution; dissenter would affirm.

LAS REDEVELOPMENT COMPANY, MATTER OF, v FRASIER:

3RD Dept. App. Div. order of 05/24/02; motion for poor person relief denied; sua sponte examination whether a substantial constitutional question is directly involved; CIVIL PROCEDURE; DENIAL OF MOTION FOR POOR PERSON RELIEF; App. Div. denied appellant's motion to proceed as a poor person.

MAIN EVALUATIONS, INC. v STATE OF NEW YORK, et al.:

4th Dept. App. Div. order of 07/03/02; reversal with dissent; sua sponte examination of whether a substantial constitutional question is directly involved; CIVIL PROCEDURE; JURISDICTION - SUIT AGAINST THE STATE AND A STATE AGENCY FOR DECLARATORY AND INJUNCTIVE RELIEF - DISMISSAL ON SUBJECT MATTER JURISDICTION GROUNDS; Supreme Court, Erie County, inter alia, granted plaintiff's motion for a preliminary injunction; App. Div. reversed, granted the cross-motion and dismissed the complaint; dissenter would affirm.

MAYE v DWYER:

4th Dept. App. Div. order of 06/14/02; administrative determination confirmed; sua sponte examination of whether a substantial constitutional question is directly involved; ADMINISTRATIVE LAW; PISTOL PERMIT REVOCATION; BASIS FOR DETERMINATION; ALLEGED DUE PROCESS VIOLATION; Oneida County Judge and Pistol Hearing Officer revoked petitioner's pistol permit; App. Div., in a proceeding commenced there, confirmed the determination and dismissed the petition.

WEST, JR. (OLIVER GIOLA), PEOPLE v:

1ST Dept. App. Div. order of 04/02/02; leave to appeal granted by Ciparick, J., 07/16/02; CRIMES AND CRIMINAL PROCEDURE; APPEALS - DISMISSAL OF APPEAL AS ABANDONED; EFFECT OF FILING A FEDERAL HABEAS CORPUS PETITION ON STATE COURT APPELLATE PROCESS; App. Div. denied as moot appellant's motion to reinstate his 1988 appeal, assign counsel and for poor person relief and granted the People's cross-motion to dismiss the appeal.