



*State of New York
Court of Appeals*

Vol. 43 - No. 33
8/30/23

*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

August 18, 2023 through August 24, 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.

MCGOVERN (RANDALL K.), PEOPLE v:

4th Dept. App. Div. order of 3/17/23; affirmance; leave to appeal granted by Wilson, Ch. J., 8/2/23;

Crimes—Sentence—Whether defendant was improperly sentenced to consecutive terms of imprisonment for forgery in the second degree and grand larceny in the third degree when the act of forgery was the method by which the larceny was committed;

County Court, Erie County, convicted defendant upon a jury verdict of grand larceny in the third degree, forgery in the second degree, petit larceny, attempted grand larceny in the third degree, and scheme to defraud in the first degree; App. Div. affirmed.

MATTER OF NIAGARA FALLS REDEVELOPMENT v CITY OF NIAGARA FALLS:

4th Dept. App. Div. order of 7/28/23; confirmed determination; sua sponte examination

of whether a substantial constitutional question is directly involved to support an appeal as of right;

Eminent Domain—Whether respondent City’s determination to exercise its eminent domain power was rationally related to a conceivable public purpose, namely, developing parkland and other recreational space, and revitalizing and redeveloping a longstanding vacant lot;

App. Div., in a proceeding pursuant to Eminent Domain Procedure Law § 207 to annul the determination of respondent authorizing the condemnation of certain real property, confirmed the determination and dismissed the petition.