

COURT OF APPEALS NEW FILINGS

Preliminary Appeal Statements processed
by the Court of Appeals Clerk's Office
June 13 through June 19, 2008

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.

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.

FARID, MATTER OF v DENNISON:

3RD Dept. App. Div. order of 5/22/08; dismissal; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;
PAROLE - DENIAL - CHALLENGE TO APPELLATE DIVISION ORDER DISMISSING, AS MOOT, PETITIONER'S APPEAL FROM A SUPREME COURT JUDGMENT DISMISSING HIS CPLR ARTICLE 78 PETITION CHALLENGING RESPONDENT'S DETERMINATION DENYING PAROLE;
Supreme Court, Albany County dismissed petitioner's CPLR article 78 petition as moot; App. Div. dismissed appeal as moot.

GOMEZ (VICTOR), PEOPLE v:

1ST Dept. App. Div. order of 4/10/08; reversal and dismissal of indictment; leave to appeal granted by McGuire, J., 6/10/08; Rule 500.11 review pending;
CRIMES AND CRIMINAL PROCEDURE - UNLAWFUL SEARCH AND SEIZURE - INVENTORY SEARCH - PRESERVATION;
Supreme Court, New York County convicted defendant, upon his guilty plea, of criminal sale of a controlled substance in the third degree; App. Div. reversed, granted defendant's suppression motion, vacated the plea and dismissed the indictment.

JEAN-LAURENT, MATTER OF v DAVID:

3RD Dept. App. Div. order of 5/15/08; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right and whether the appeal was timely taken in the manner required by CPLR 5515(1);
PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER SUBSTANTIAL EVIDENCE SUPPORTS THE DETERMINATIONS OF GUILT WITH RESPECT TO VARIOUS CHARGES STEMMING FROM TWO UNRELATED INCIDENTS; DUE PROCESS - PRISONER'S ABILITY TO PRESENT WITNESSES - CLAIMED BIAS OF HEARING OFFICER;
App. Div. confirmed determinations of Commissioner of Correctional Services and respondent Superintendent of Greene Correctional Facility which found petitioner guilty of violating certain prison disciplinary rules, and dismissed the petition.

SHULMAN v HUNDERFUND et al.:

2ND Dept. App. Div. order of 2/5/08; dismissal and reversal; leave to appeal granted by Court of Appeals, 6/10/08;
LIBEL AND SLANDER - LIBEL PER SE - DEFAMATION - STATEMENTS IN A FLIER OPPOSING PLAINTIFF'S ELECTION TO THE BOARD OF EDUCATION; MOTION TO SET ASIDE JURY VERDICT - CPLR 4404(a); STANDARD OF APPELLATE REVIEW OF JURY VERDICT;
Supreme Court, Suffolk County granted defendant Hunderfund's CPLR 4404(a) motion to set aside so much of a jury verdict as was in favor of plaintiff and against him awarding punitive damages in the sum of \$100,000, and granted judgment as a matter of law in defendant Hunderfund's favor (the order); thereafter, the same court entered judgment dismissing the complaint as against defendant Hunderfund; App. Div. dismissed the appeal from the order and reversed the judgment, denied defendant Hunderfund's motion, severed the action against defendant Tornee, and remitted the matter to Supreme Court for entry of judgment in favor of plaintiff and against defendant Hunderfund.