

# *Essentials of Life*

*~ A Newsletter Dedicated to Helping Women Face the Challenges of Prison Life ~*



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**In the last issue of EOL, we discussed the rights given to prisoners by the State of New York. This issue discusses how to use the state courts to enforce your rights and how to read state court case citations. We hope that these two articles will help you become more legally savvy!**

**Once again, we ask you to send us your thoughts about EOL, your prison experiences and, if you have been released and returned to prison, your re-entry experiences. Write a poem, an essay or a letter – we are interested in your thoughts and feelings!**

## **The Structure of the State Courts That Decide Lawsuits Filed by Prisoners**

There are three levels of state courts: the trial courts, the appellate divisions, and the Court of Appeals. Cases begin in the trial courts with the filing of a complaint, a claim, or a petition. After the trial court issues its final decision, most cases can be appealed **as of right** (the losing party does not have to get permission to appeal) to the appellate division that covers the county in which the case began. There are four appellate divisions, each covering the trial level courts in a specific geographic area. There is a right of appeal from an appellate division decision in four situations. The two most often used are 1) where two or more justices dissent from the majority opinion and 2) where the validity of a statute is challenged under the state or federal constitution. Otherwise, if the losing party wants to appeal from an appellate division decision, he or she must ask permission to do so. Permission may be requested from either the appellate division or the Court of Appeals. If a federal constitutional issue is decided by the Court of Appeals, the losing party may **petition** (ask) the United States Supreme Court to consider the constitutional issue. PLS publishes an address packet that gives the address of each of the appellate divisions and the Court of Appeals and describes the geographic area from which each appellate division accepts cases.

## **The Process of Litigating a Case in the State Courts**

Generally speaking, prisoners bring legal actions in one of two state courts. The two courts that hear most prisoner cases are the state supreme courts, which are located in every county, and the Court of Claims, which is located in Albany, but has judges in a number of locations throughout the state. These judges are assigned cases based on the county in which the claims arose.

## The New York State Court of Claims

The Court of Claims has **jurisdiction** (authority) to hear cases for damages resulting from the conduct of state employees who were acting within the scope of their employment at the time that the claim arose. The state employee must owe a duty of care to you that he or she violated either accidentally (negligently) or intentionally. The failure to live up to a duty of care is called a tort. Torts that commonly serve as the basis for prisoner claims are workplace accidents, slip and falls, the destruction or loss of property, failure to protect an inmate from another inmate, negligent medical treatment and assaults by staff. Filing a claim in the Court of Claims commences a **plenary proceeding**. This means that there will be pre-trial discovery and a trial. The Court of Claims has its own rules and procedures. You can obtain the rules and procedures from the court. Matters not expressly covered by the Court of Claims rules are governed by the Civil Practice Law and Rules (CPLR). If you are interested in learning more about the kinds of claims that you can bring in the Court of Claims and the procedures for doing so, you can write PLS and request our form materials on the Court of Claims. The PLS address packet has the address of the Court of Claims in Albany.

## The New York State Supreme Court

The state supreme courts have **jurisdiction** (authority) over actions brought by prisoners for damages, declaratory and injunctive relief. <sup>1</sup> This means that you can sue a DOCCS employee, such as a correction officer or a doctor employed by DOCCS, for money, a decision declaring that an employee's conduct violated your rights (known as declaratory relief), and/or for an order requiring that the defendant take an action that the court decides is the appropriate action to remedy the violation of your rights (known as injunctive relief).

The two types of legal actions that prisoners typically pursue in the state supreme courts are the Article 78 Petition and the Article 70 Petition (for habeas corpus relief). Article 70 and 78 actions are known as **summary actions**; typically the court grants or denies such petitions based on the papers, accompanying documents and records, and the **memoranda of law** (briefs) submitted by the **parties** (the petitioner and the respondent). It is possible, although it does not happen frequently, for a court hearing an Article 78 to authorize discovery and to hold hearings or trials. The rules of procedure that apply to actions in the supreme court are set forth in the Civil Practice Law and Rules (CPLR). If you are interested in learning more about Article 70 and 78 actions, you can write PLS and request our form materials on these two procedures.

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<sup>1</sup> At one time, Section 24 of the Correction Law prohibited suits for money damages against DOCCS employees. In 2009, this law was declared unconstitutional by the United States Supreme Court in the case Haywood v. Drown, 129 S.Ct. 2108 (2013).

## Reading State Case Citations

Court decisions are published in bound volumes called reporters. In New York there are official reporters and unofficial reporters. Each official reporter publishes the decisions of a specific level of court. For example, the official reporter for decisions issued by the New York Court of Appeals is called the New York Reports (abbreviated as *N.Y.*), the official reporter for trial court decisions is known as the Miscellaneous Reports (abbreviated *Misc.*), and the official reporter for Appellate Division decisions is called the Appellate Division Reports (abbreviated as *A.D.*). The unofficial reporter is called the New York Supplement (abbreviated as *N.Y.S.*).

There are 999 volumes in each series of reporters. Decisions are published in the order that they are issued. Thus, a decision published in volume 1 of a reporter was issued earlier than a decision published in volume 50. The volume number is the first number in a case cite. Following the volume number is the abbreviation of the Reporter, which is followed by the page number of the volume.

Here is a breakdown of one of the most commonly used state citation formats: Matter of Fitzpatrick v. Goord, 269 A.D.2d 642, 704 N.Y.S.2d 173 (3d Dep't 2000). The first two words of the underlined portion of the citation – Matter of -- tells you that this is a decision in an Article 78 proceeding. (If it was a decision in a habeas corpus action, the citation would be: People ex rel. Fitzpatrick v. Goord). The first name in the citation is the name of the petitioner (in a habeas action the first person listed is called the relator); the second is the name of the respondent. The decision was issued by the Third Department in 2000. The decision was published in volume 269 of the second series of the Appellate Division Reports and begins on page 642. That is the citation to the official reporter. The decision was also published in the unofficial reports on page 173 of volume 704 of the second series of the New York Supplement.

Until you know whether the law library to which you are sending your request for a copy of a case decision has the official or the unofficial reporters, and if you know both citations, you should send both. If you only know one, send the one you have. Law librarians know how to convert the official citation into the unofficial citation, and vice versa.

A case citation gives you valuable information about the decision to which it refers. You can determine the court that issued the decision, when the decision was issued, the names of the parties, and whether the decision is from a trial court or an appellate court. In addition, using the case citation, you can find out whether other decisions, issued in the years since the case was issued, have cited to the decision. When you write briefs and memoranda of law, you use case citations to direct the court to decisions that you think would be helpful to the court in deciding your case.

We hope that this introduction to your rights under the laws of New York State, the state courts and state case citations will be helpful to you in researching the law, reading cases, reading *Pro Se*, and, should you ever need to do so, representing yourself in court.

**EOL**

**c/o Prisoners' Legal Services of New York  
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Prisoners' Legal Services of New York  
Attention: EOL Staff  
114 Prospect Street  
Ithaca, NY 14850

Please notify *EOL* each time you are transferred. DOCCS will not forward *EOL*.

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