

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

Matter of District Attorney of Columbia County v. Nussinow

2026 NY Slip Op 01108 · No. CV-25-0209 · Decided February 26, 2026

SUMMARY

The Appellate Division, Third Department dismissed appeals from Town Court orders requiring security for the care of seized horses and forfeiting the respondent's interest in the animals. The court held that the orders were not appealable directly to the Appellate Division and that the proper appeal route was to County Court.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Pritzker, J.; Garry, P.J.; Clark, J.; Powers, J.; Corcoran, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	February 26, 2026
DOCKET	CV-25-0209
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeals from a Town Court order requiring respondent to post security for the care of seized animals and a subsequent order forfeiting respondent's right, title, and interest in the animals after respondent failed to post the security.
PRECEDENTIAL VALUE	Published
PARTIES	Andrea Nussinow v. District Attorney of Columbia County, on behalf of Lucky Orphans Horse Rescue Inc.

TOPICS

- appellate jurisdiction
- appellate procedure
- civil procedure

PRACTICE AREAS

- Appellate procedure
- Animal law
- Civil procedure

QUESTIONS PRESENTED

1. Whether the Appellate Division had jurisdiction to hear direct appeals from the Town Court's orders requiring security and forfeiting the seized animals.
2. Whether the proper appellate route for those Town Court orders was an appeal to County Court.

HOLDINGS

1. The Town Court's orders were not appealable directly to the Appellate Division, so the appeals had to be dismissed.
2. The proper procedure was for Nussinow to appeal the Town Court orders to County Court.

KEY QUOTATIONS

“Respondent's appeals must be dismissed because Town Court's orders are not appealable to this Court”
([*1])

FACTUAL BACKGROUND

New York State Police executed a search warrant on Nussinow's property in July 2024 and seized 13 horses based on allegations that she failed to provide proper sustenance in violation of Agriculture and Markets Law § 353. The horses were placed in the care of Lucky Orphans Horse Rescue Inc., which petitioned for security to cover 30 days of housing and care costs. After Nussinow failed to post the required security within five days, Town Court forfeited her right, title, and interest in the horses and vested ownership in Lucky Orphans.

PROCEDURAL HISTORY

The Town Court of Germantown ordered Andrea Nussinow to post a cash security bond under Agriculture and Markets Law § 373 (6) and later forfeited her interest in 13 seized horses when she failed to post the bond. Nussinow sought a stay from Town Court and then County Court; County Court denied the request without reaching the merits and directed her to the proper appellate procedures. Nussinow appealed the Town Court orders to the Appellate Division, which dismissed the appeals for lack of appellate jurisdiction.

DISPOSITION

dismissed

CASES CITED

- Matter of Park Realty Corp. v Hydrania Inc., 17 AD3d 898, 899 [3d Dept 2005]
- Matter of Kern v Guller, 40 AD3d 1231, 1232 [3d Dept 2007]
- Viscusi v Albany County Dental Assoc., 226 AD3d 1124, 1125 [3d Dept 2024]

OPINION

Matter of District Attorney of Columbia County v. Nussinow 2026 NY Slip Op 01108
PER CURIAM.

Matter of District Attorney of Columbia County v Nussinow (2026 NY Slip Op 01108) Matter of District Attorney of Columbia County v Nussinow 2026 NY Slip Op 01108 Decided on February 26, 2026 Appellate Division, Third Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided and Entered:February 26, 2026 CV-25-0209 [*1]In the Matter of District Attorney of Columbia County, on Behalf of Lucky Orphans Horse Rescue Inc., Respondent, v Andrea Nussinow, Appellant. Calendar Date:January 12, 2026 Before:Garry, P.J., Clark, Pritzker, Powers and Corcoran, JJ. Joshua D. Haar, West Edmeston, for appellant. Christopher Liberati-Conant, District Attorney, Hudson (Brett Michael Fuller of counsel), for respondent. Pritzker, J. Appeals (1) from an order of the Town Court of Germantown, Columbia County (Wendy Nack-Lawlor, J.), dated September 18, 2024, which, in a proceeding pursuant to Agriculture and Markets Law § 373, required respondent to post security and, (2) from an order of said court, entered October 18, 2024, which granted petitioner's application for forfeiture of seized animals. Lucky Orphans Horse Rescue Inc. is a nonprofit horse sanctuary and an impounding organization as defined by the Agriculture and Markets Law (see Agriculture and Markets Law § 373 [6]). In July 2024, the State Police executed a search warrant on respondent's property, resulting in the seizure of 13 horses based upon allegations that respondent failed to provide proper sustenance in violation of Agriculture and Markets Law § 353. Respondent was arrested and charged with 13 counts of violating Agriculture and Markets Law § 353, and the seized horses were placed in Lucky Orphans' care and custody. Petitioner, on behalf of Lucky Orphans, filed a petition requiring respondent to post security, pursuant to Agriculture and Markets Law § 373 (6), for the costs incurred for housing and caring for the horses for 30 days. Following a bond hearing, Town Court orally ordered respondent to post a cash security bond in the requested amount within five days. Respondent immediately requested a stay pending appeal, which the court denied. Thereafter, respondent, by letter motion in County Court, requested a stay of Town Court's order pending appeal. County Court (Herman, J.), denied the request without addressing the merits and directed respondent to article 17 of the Uniform Justice Court Act and CPLR articles 55 and 78 for the proper procedure to appeal Town Court's order. Subsequently, after respondent failed to post the security bond within five days, Town Court issued a written order forfeiting respondent's "right, title, and interest" in the horses and vested ownership in the horses to Lucky Orphans (see Agriculture and Markets Law § 373 [6] [b] [2]). Respondent appeals from Town Court's oral and written orders. Respondent's appeals must be dismissed because Town Court's orders are not appealable to this Court (see UJCA 1701). Rather, the proper procedure would be for respondent to appeal those orders to County Court (compare Matter of Park Realty Corp. v Hydrania Inc. , 17 AD3d 898, 899 [3d Dept 2005], and Matter of Kern v Guller , 40 AD3d 1231, 1232 [3d Dept 2007], with Viscusi v Albany County Dental Assoc. , 226 AD3d 1124 , 1125 [3d Dept 2024]). Garry, P.J., Clark, Powers and Corcoran, JJ., concur. ORDERED that the appeals are dismissed, without costs.

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/new-york-appellate-division-third-department-appellate-division-of-the-supreme-court-of-the-state-of-2026/matter-of-district-attorney-of-columbia-county-v-nussinow-cqoaf2g0>