



CHANGE OF VENUE TO ALLOW PETITIONER'S MOTHER TO TESTIFY SHOULD HAVE BEEN GRANTED.

The Fourth Department, reversing Supreme Court, determined petitioner sex offender's motion for a change of venue for the annual review of his civil commitment under Article 10 should have been granted. The change was sought to allow petitioner's mother to testify:

In this annual review proceeding pursuant to Mental Hygiene Law § 10.09, petitioner appeals from an order that, inter alia, denied that part of his motion seeking a change of venue to New York County for the convenience of witnesses Petitioner was previously determined to be a dangerous sex offender requiring civil confinement and confined to a secure treatment facility He is currently confined at the Central New York Psychiatric Center in Oneida County. We now grant that part of the motion seeking a change of venue.

The court may change the venue of an annual review proceeding" to any county for good cause, which may include considerations relating to the convenience of the parties or witnesses or the condition of the [confined sex offender]' " We agree with petitioner that Supreme Court improvidently exercised its discretion in denying his motion inasmuch as the proposed testimony of his mother, who lives in New York County, is "relevant to the issue of whether petitioner remained a dangerous sex offender in need of confinement" Although respondent correctly notes that the subjects of the mother's proposed testimony also may be the subjects of expert testimony, "[t]he pertinent question is whether a witness—expert or lay—has material and relevant evidence to offer on the issues to be resolved" We agree with petitioner that his mother's proposed testimony concerning his stated goals and priorities, likely living arrangements, and the availability and extent of a familial support system in the event of release, is material and relevant to the issue whether he "is likely to be a danger to others and to commit sex offenses if not confined to a secure treatment facility" [Matter of Charada T. v State of New York, 2017 NY Slip Op 03379, 4th Dept 4-28-17](#)

MENTAL HYGIENE LAW (SEX OFFENDERS, CIVIL COMMITMENT, CHANGE OF VENUE TO ALLOW PETITIONER'S MOTHER TO TESTIFY SHOULD HAVE BEEN GRANTED)/SEX OFFENDERS (MENTAL HYGIENE LAW, CHANGE OF VENUE TO ALLOW PETITIONER'S MOTHER TO TESTIFY SHOULD HAVE BEEN GRANTED)/CIVIL COMMITMENT (MENTAL HYGIENE LAW, CHANGE OF VENUE TO ALLOW PETITIONER'S MOTHER TO TESTIFY SHOULD HAVE BEEN GRANTED)/VENUE (MENTAL HYGIENE LAW, CHANGE OF VENUE TO ALLOW PETITIONER'S MOTHER TO TESTIFY SHOULD HAVE BEEN GRANTED)