

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
January 10, 2003 through January 16, 2003

A list of appeals with short title, jurisdictional predicate, subject matter and key issues is prepared each week.

Some of these filed appeals may never reach decision on the merits because of dismissal on motion, sua sponte, or for time deficiencies or because of stipulated withdrawals by the parties. Also, some counsel fail to file timely jurisdictional statements and thus the list should not be treated as comprehensive for any particular week.

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 Court Rule 500.11 and direct any questions to the Clerk's Office.

For January 10, 2003 through January 16, 2003 the following jurisdictional statements for appeals were filed:

CHEN (CHI FONG), PEOPLE v:

2ND Dept. App. Div. order of 4/29/02; affirmance; leave to appeal granted by Kaye, Ch.J., 12/12/02; Rule 500.4 review pending; CRIMES AND CRIMINAL PROCEDURE - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - CONTRADICTORY DEFENSES - ALLEGED FAILURE TO SUPPORT DEFENSES WITH EXPERT TESTIMONY; TRIAL COURT'S ALLEGED ABUSE OF SENTENCING DISCRETION; County Court, Westchester County, entered judgment convicting defendant of attempted murder in the second degree; App. Div. affirmed.

FORBUS, MATTER OF, v. STOLFI:

3RD Dept. App. Div. order of 12/19/02; dismissal; sua sponte examination of whether a substantial constitutional question is directly involved and whether the appellant is a party aggrieved within the meaning of CPLR 5511;

PARENT AND CHILD - TIMELINESS OF FAMILY COURT PROCEEDINGS; CIVIL PROCEDURE - APPEALABILITY OF ORDER ENTERED UPON CONSENT;

Family Court, Rensselaer County, granted petitioner's application, in a Family Court Act article 6 proceeding, for sole custody of the parties' child; App. Div. dismissed the appeal.

MURRAY, MATTER OF, v. GOORD, et al.:

1ST Dept. App. Div. order of 10/1/02; affirmance; leave to appeal granted by Court of Appeals, 1/9/03;

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - EFFECT OF VACATUR OF PRIOR SENTENCE AND ENTRY OF NEW PLEA;

Supreme Court, Bronx County, granted CPLR article 78 petition and directed that petitioner's sentences be served concurrently rather than consecutively; App. Div. affirmed.

TWIN LAKES DEVELOPMENT CORPORATION v THE TOWN OF MONROE:

2ND Dept. App. Div. order of 12/23/02; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved, whether the order appealed from finally determines the action within the meaning of the Constitution and whether the matter has been rendered academic as a result of any other proceedings or circumstances;

REAL PROPERTY - LAND USE REGULATION - ASSESSMENT AGAINST REAL ESTATE DEVELOPER; FEE IN LIEU OF DEDICATION OF PARKLAND; VALIDITY OF LOCAL LAW NO. 3 OF 2000 AND LOCAL LAW NO. 7 OF 1991 OF TOWN OF MONROE;

Supreme Court, Orange County, granted defendant's motion for summary judgment dismissing complaint, denied plaintiff's motion for summary judgment and directed parties to settle judgment declaring the rights of the parties; App. Div. affirmed and remitted for entry of judgment declaring the challenged local laws legal and constitutional.

