

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed  
In the New York Court of Appeals from  
**March 21, 2003 through March 27, 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 March 21, 2003 through March 27, 2003 the following jurisdictional statements for appeals were filed:

HAIRSTON v GOORD:

4<sup>th</sup> Dept. App. Div. order of 2/7/03; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved;  
PRISONS AND PRISONERS - DISCIPLINE OF INMATES - DUE PROCESS CHALLENGE TO PRISONER DISCIPLINARY DETERMINATION;  
Supreme Court, Cayuga County denied the CPLR article 78 petition and dismissed the proceeding; App. Div. affirmed.

HUANG (JIAN JING), PEOPLE v:

1<sup>ST</sup> Dept. App. Div. order of 12/24/02; reversal; leave to appeal granted by Rosenberger, J., 3/11/03;

CRIMES AND CRIMINAL PROCEDURE - PLEA OF GUILTY - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - INEFFECTIVE ASSISTANCE OF COUNSEL CLAIM BASED ON COUNSEL'S ALLEGEDLY AFFIRMATIVE, MATERIAL MISREPRESENTATIONS CONCERNING DEFENDANT'S IMMIGRATION STATUS PRIOR TO DEFENDANT'S GUILTY PLEA;

Supreme Court, New York County granted defendant's motion to withdraw his guilty plea or, in the alternative, to vacate a judgment rendered upon that plea; App. Div. reversed and denied the motion.

MITCHELL (RICKY), PEOPLE v:

1<sup>ST</sup> Dept. App. Div. order of 11/12/02; affirmance; leave to appeal granted by Smith, J., 2/27/03;

CRIMES AND CRIMINAL PROCEDURE - RIGHT TO COUNSEL - ATTORNEY REPRESENTING DEFENDANT ON UNRELATED MATTER - SUPPRESSION OF LINEUP IDENTIFICATION - INVOCATION OF RIGHT TO COUNSEL BY MOTHER OF 15 YEAR OLD DEFENDANT;

Supreme Court, Bronx County convicted defendant of two counts of robbery in the first degree and sentenced him to concurrent terms of three to nine years; App. Div. affirmed.

SMITH, MATTER OF, v SMITH:

4<sup>TH</sup> Dept. App. Div. order of 2/7/03; denial of motions to reargue; sua sponte examination whether the order appealed from finally determines the proceeding within the meaning of the Constitution and whether a substantial constitutional question is directly involved;

HUSBAND AND WIFE - SUPPORT - ENFORCEMENT OF JUDGMENTS FOR ARREARS IN CHILD SUPPORT AND MAINTENANCE - INTEREST CALCULATION - INTEREST ACCRUAL DATES - REARGUMENT OF APPELLATE DIVISION ORDERS; Family Court, Erie County denied petitioner's objections to four orders of a hearing examiner denying petitioner's motions to enforce four judgments for arrears in child support and maintenance, and for costs; App. Div. affirmed as to three orders and modified as to fourth order; App. Div. thereafter denied reargument.