

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
December 28, 2001 through January 3, 2002

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 December 28, 2001 through January 4, 2002 the following jurisdictional statements for appeals were filed:

HITCHCOCK (TERRY), PEOPLE v:

Cattaraugus County Court order of 8-7-01; affirmance; leave to appeal granted by Wesley, J., 12-19-01;
CRIMES; ENDANGERING THE WELFARE OF A CHILD - SHOOTING ACCIDENTS;
PARENTAL CULPABILITY - MENS REA ELEMENT; SPEEDY TRIAL;
Allegany Town Court, conviction of endangering the welfare of a child; County Court affirmed.

HUANG (QIKE), PEOPLE v:

2ND Dept. order of 6-11-01; affirmance; leave to appeal granted by Levine, J., 12-14-01;

CRIMES AND CRIMINAL PROCEDURE - JURY TRIALS; EVIDENCE - SUPPRESSION OF AUDIOTAPE PLAINTIFF ALLEGEDLY OBTAINED BY ILLEGAL EAVESDROPPING; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL; Supreme Court, Kings County, conviction of assault second degree, bringing up for review grant of People's motion to suppress an audiotope; App. Div. affirmed.

RETAIL PROPERTY TRUST, MATTER OF, v BOARD OF ZONING APPEALS OF THE TOWN OF HEMPSTEAD AND INCORPORATED VILLAGE OF GARDEN CITY, et al:

2ND Dept. App. Div. order of 3-19-01; reversal; leave to appeal granted by Court of Appeals, 12-18-01;

MUNICIPALITIES - ZONING; ADMINISTRATIVE PROCEEDINGS - JUDICIAL REVIEW; SPECIAL USE EXCEPTIONS;

Supreme Court, Nassau County, denied the petition to review a Zoning Board of Appeals determination denying an application for a special exception permit; App. Div. reversed, granted the petition annulled the determination and remitted the matter to the Zoning Board Appeals to review and issue a new determination with respect to the special exception permit.

WESTCHESTER CREEK CORP. v NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY:

1ST Dept. App. Div order of 9-13-01; administrative determination confirmed; leave to appeal granted by Court of Appeals, 12-18-01; EMINENT DOMAIN - "PRIOR PUBLIC USE DOCTRINE"; WHETHER LAND TAKEN FOR URBAN RENEWAL CAN BE SUBSEQUENTLY TAKEN FOR SCHOOL CONSTRUCTION;

New York City School Construction Authority determination to acquire by eminent domain property leased to it by the City of New York; App. Div. confirmed the determination and dismissed the proceeding.