

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed  
In the New York Court of Appeals from  
February 8, 2002 through February 14, 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 February 8, 2001 through February 14, 2002 the following jurisdictional statements for appeals were filed:

AL TURI LANDFILL, INC. v. NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, et al.:

2<sup>ND</sup> Dept. App. Order of 12/3/01; administrative determination confirmed with dissents;  
ADMINISTRATIVE LAW; BASIS FOR DENIAL OF PERMIT FOR LANDFILL EXPANSION BASED UPON CONVICTIONS OF CRIMES; RELATIONSHIP BETWEEN CRIMES AND LICENSE SOUGHT (CORRECTION LAW §752[1]);  
Supreme Court, Orange County, denied the petition in part and transferred the matter to the Appellate Division; App. Div. confirmed the determination denying the application for an expansion permit; dissenters would annul the determination and remit the matter for further proceedings.

COOPER (LYNETTE), PEOPLE v:

Appellate Term 2<sup>nd</sup> and 11<sup>th</sup> Judicial Districts order of 10/24/01; affirmance; leave to appeal granted by Smith, J., 1/31/02; CRIMES AND CRIMINAL PROCEDURE; CALCULATION OF SPEEDY TRIAL PERIOD WHEN CLASS A MISDEMEANOR IS REDUCED TO CLASS B MISDEMEANOR; Kings County, Criminal Court, denied defendant's motion to dismiss the information on speedy trial grounds; App. Div. affirmed.

HARRIS (LAWRENCE) a/k/a DAHU, PEOPLE v:

3<sup>rd</sup> Dept. App. Div. order of 11/15/01; modification; leave to appeal granted by Smith, J., 1/22/02; CRIMES AND CRIMINAL PROCEDURE; CONFLICT OF INTEREST - DEFENSE ATTORNEY'S REPRESENTATION OF INFORMANT IN THIS CASE ON UNRELATED CHARGES; Fulton County Court convictions of criminal possession of a controlled substance in the first degree, criminal facilitation in the second degree, conspiracy in the second degree, criminal sale of controlled substance in the third degree, criminal facilitation in the fourth degree; App. Div. modified and directed all the sentences run concurrently.

HICKS (CHARLIE), PEOPLE v:

4<sup>th</sup> Dept. App. Div. order of 11/9/01; modification; leave to appeal granted by Wesley, J., 1/29/02; CRIMES AND CRIMINAL PROCEDURE; PLEA AND SENTENCE - ENHANCED SENTENCE IMPOSED FOR ALLEGED FAILURE TO ANSWER TRUTHFULLY QUESTIONS POSED BY PROBATION DEPARTMENT; Monroe County Court, conviction of rape in the first degree; App. Div. modified and vacated the enhanced sentence and imposed the bargained-for-sentence.

JACKSON (CHARLES), PEOPLE v:

1<sup>st</sup> Dept. App. Div. order of 7/26/01; reversal; leave to appeal granted by Levine, J., 1/31/02; CRIMES AND CRIMINAL PROCEDURE - SEARCH AND SEIZURE; ROADBLOCK INTERDICTION - "PRIMARY PURPOSE" AND "GRAVE PUBLIC CONCERN" REQUIREMENTS; Supreme Court, New York County, conviction of criminal possession of a controlled substance in the second degree; App. Div. reversed, dismissed the indictment and remanded the matter to Supreme Court.

627 SMITH STREET CORPORATION, et al., v BUREAU OF WASTE DISPOSAL &c OF THE CITY OF NEW YORK:

2<sup>nd</sup> Dept. App. Div. order of 12/24/01; affirmance; appeal taken pursuant to CPLR 5601(b); sua sponte examination of whether a substantial constitutional question is directly involved; MUNICIPALITIES - INVERSE CONDEMNATION; SUFFICIENCY OF EVIDENCE - RELEVANCE OF FUTURE CONDUCT; MEASURE OF DAMAGES FOR APPROPRIATION OF RIPARIAN RIGHTS; ATTORNEYS FEES; Supreme Court, Kings County, judgment in favor of plaintiffs; App. Div. affirmed.

WALKER v WALKER:

2<sup>nd</sup> Dept. App. Div. order of 12/3/01; affirmance; appeal taken pursuant to CPLR 5601(b); sua sponte examination of whether a substantial constitutional question is directly involved; DOMESTIC RELATIONS - CUSTODY AND VISITATION; BASIS FOR CUSTODY DETERMINATION; ALLEGED EXCESSIVE MAINTENANCE AND CHILD SUPPORT PAYMENTS;

Supreme Court, Suffolk County, inter alia, awarded custody of two of the parties' three minor children to plaintiff and failed to retroactively reduce maintenance and child support awarded the plaintiff; App. Div. affirmed.

WRIGHT (ANTHONY), a/k/a SMITH, PEOPLE v:

3<sup>rd</sup> Dept. App. Div. order of 11/15/01; modified; leave to appeal granted by Smith, J., 1/22/02; CRIMES AND CRIMINAL PROCEDURE; CONFLICT OF INTEREST; DEFENDANT'S RIGHT TO BE PRESENT AT COURT INTERVIEW OF CERTAIN JURORS; Fulton County Court, convictions of criminal possession of a controlled substance in the first degree, criminal facilitation in the second degree, conspiracy in the second degree, criminal sale of controlled substance in the third degree and criminal facilitation in the fourth degree; App. Div. modified and directed all sentences imposed run concurrently.

YOUKELSONE v BARASCH, et al.:

2<sup>nd</sup> Dept. App. Div. order of 12/24/01; Article 78 petition denied; appeal taken pursuant to CPLR 5601(b); sua sponte examination of whether a substantial constitutional question is directly involved;

ADMINISTRATIVE PROCEEDINGS; AVAILABILITY OF PROHIBITION TO PRECLUDE ADJOURNING A MOTION DATE IN A PENDING SUPREME COURT CASE;

App. Div. denied the petition to preclude a justice of the Supreme Court, Kings County from adjourning the return date of the appellant's motion to dismiss the complaint and dismissed the proceeding.