

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
February 14, 2003 through February 20, 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 February 14, 2003 through February 20, 2003 the following jurisdictional statements for appeals were filed:

DAVIS, MATTER OF, v GOORD:

3RD Dept. App. Div. order of 1/30/03; confirmed determination and dismissed CPLR article 78 petition; sua sponte examination of whether a substantial constitutional question is directly involved;

PRISONS AND PRISONERS - CHALLENGE TO INMATE DISCIPLINARY DETERMINATION; ALLEGED DELIBERATE INDIFFERENCE TO INMATE'S MEDICAL CONDITION;

App. Div. confirmed determination of Commissioner of Correctional Services finding petitioner guilty of violating a prison disciplinary rule and dismissed petition.

MILLS (ARTHUR), PEOPLE v:

4TH Dept. App. Div. order of 11/15/02; affirmance; leave to appeal granted by Scudder, J., 1/15/03;
CRIMES AND CRIMINAL PROCEDURE - LESSER INCLUDED OFFENSE - LIMITATIONS OF ACTIONS - DEFENDANT'S WAIVER OF STATUTE OF LIMITATIONS DEFENSE AGAINST LESSER INCLUDED OFFENSE BY REQUESTING CHARGE INCLUDING LESSER INCLUDED OFFENSE; EVIDENCE - WIFE ORDERED TO TESTIFY AGAINST HUSBAND DESPITE ASSERTION OF MARITAL PRIVILEGE; SUFFICIENCY OF EVIDENCE TO SUPPORT VERDICT;
Oneida County Court entered judgment convicting defendant of criminally negligent homicide; App. Div. affirmed.

PICHARDO (JUAN CARLOS), PEOPLE v:

1ST Dept. App. Div. order of 10/1/02; reversal; leave to appeal granted by Graffeo, J., 2/7/03;
CRIMES AND CRIMINAL PROCEDURE - PLEA OF GUILTY - STANDARD FOR VACATUR OF PLEA WHERE PLEA AGREEMENT INVOLVED A SENTENCE TO RUN CONCURRENTLY WITH ANOTHER SENTENCE WHICH WAS SUBSEQUENTLY VACATED;
Supreme Court, Bronx County, granted defendant's CPL 440.10 motion to vacate a judgment convicting defendant, upon his guilty plea, of criminal sale of a controlled substance in the third degree; App. Div. reversed, denied the motion and reinstated the judgment of conviction.

ROBERTSON (DARRYLE), PEOPLE v:

1ST Dept. App. Div. order of 6/20/02; affirmance; leave to appeal granted by Rosenblatt, J., 2/6/03;
CRIMES AND CRIMINAL PROCEDURE - PLEA OF GUILTY - PEOPLE'S DUTY TO ABIDE BY A PROMISED PLEA BARGAIN OR PERMIT DEFENDANT TO WITHDRAW GUILTY PLEA;
Supreme Court, New York County, entered judgment convicting defendant, upon his plea of guilty, of criminal possession of a controlled substance in the third degree; App. Div. affirmed.