Vol. 38 - No. 16
4/20/18

COURT OF APPEALS NEW FILINGS

Preliminary Appeal Statements processed
by the Court of Appeals Clerk's Office

April 13, 2018 through April 19, 2018

Each week the Clerk's Office prepares a list of recently-filed appeals, indicating short title, jurisdictional predicate, subject matter and key issues. Some of these appeals may not reach decision on the merits because of dismissal, on motion or sua sponte, or because the parties stipulate to withdrawal. Some appeals may be selected for review pursuant to the alternative procedure of Rule 500.11. For those appeals that proceed to briefing in the normal course, the briefing schedule generally will be: appellant's brief to be filed within 60 days after the appeal was taken; respondent's brief to be filed within 45 days after the due date for the filing of appellant's brief; and a reply brief, if any, to be filed within 15 days after the due date for the filing of respondent's brief.

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 Rule 500.23 and direct any questions to the Clerk's Office.

CORDERO (CIRITO M.), PEOPLE v:
County Court, Erie County order of 12/21/17; sua sponte examination whether any basis exists for an appeal as of right to the Court of Appeals in this criminal proceeding;
Appeal--Appeal as of Right;
County Court decreed that defendant's prior motion (seeking an order assigning an attorney, an expert and an investigator to assist him in the preparation of a CPL 440.10 post-conviction motion) was without legal basis merit and was properly denied, and denied his motion for reargument and/or renewal in all aspects without a hearing.

DRELICH (MARVIN), PEOPLE v:
1st Dept., App. Term order of 12/22/17; reversal and dismissal; leave to appeal granted by Wilson, J., 4/3/18; Rule 500.11 review pending;
Crimes--Accusatory Instrument--Whether misdemeanor complaint charging defendant with patronizing a prostitute in the third degree was jurisdictionally defective because the factual allegation of the complaint--that defendant offered the complainant $15 in exchange for "manual stimulation"--was insufficient to establish the "sexual conduct" element of the charged crime.;
Criminal Court of the City of New York, New York County, convicted defendant, upon his plea of guilty, of disorderly conduct, and imposed sentence; App. Term reversed and dismissed the accusatory instrument.

IVIES, &c., MATTER OF v LASAK, et al.:
2ND Dept. App. Div. order of 12/27/17; dismissal; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;
Proceeding against Body or Officer--Dismissal of Petition--Failure to properly serve respondents; prohibition;
App. Div. dismissed the CPLR article 78 proceeding in the nature of prohibition to prohibit respondents from proceeding with an underlying criminal prosecution.

KEKEC v ROBINSON:
3RD Dept. App. Div. order of 3/8/18; affirmance; sua sponte examination whether the order appealed from finally determines the action within the meaning of the Constitution and whether a substantial constitutional question is directly involved to support an appeal as of right;
Partition--Partition or Sale--In action for partition of real property, whether Supreme Court properly ordered defendant to (1) provide plaintiff with all information necessary to execute required real estate transfer documents, and (2) comply with stipulation of settlement by discontinuing action commenced in another jurisdiction; alleged constitutional violations;
Supreme Court, Ulster County, denied defendant's motion for, among other things, a restraining order; App. Div. affirmed.