COURT OF APPEALS NEW FILINGS

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

October 9, 2015 through October 15, 2015

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.

COOK (WILLIAM), PEOPLE v (AD NO. 2012-10542):
2ND Dept. App. Div. order of 5/20/15; affirmance; leave to appeal granted by Court of Appeals, 10/20/15;
CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) - WHETHER THE SORA HEARING COURT ERRED IN ASSESSING DEFENDANT 20 POINTS UNDER RISK FACTOR 7 FOR ESTABLISHING OR PROMOTING A RELATIONSHIP WITH THE VICTIMS FOR THE PRIMARY PURPOSE OF VICTIMIZATION WHERE DEFENDANT KNEW AT LEAST THREE OF THE VICTIMS "THROUGH HIS LONGSTANDING FRIENDSHIP WITH THEIR PARENTS" - EFFECT OF FAMILY-LIKE RELATIONSHIP WITH VICTIMS;
Supreme Court, Richmond County, after a hearing, designated defendant a level three sex offender pursuant to Correction Law article 6-C; App. Div. affirmed.

CROOKS (DAYSHAWN), PEOPLE v:
3RD Dept. App. Div. order of 6/11/15; affirmance; leave to appeal granted by Fahey, J., 9/28/15;
CRIMES - INFORMERS - WHETHER THE COURTS BELOW CORRECTLY CONCLUDED THAT A DARDEN HEARING WAS NOT NECESSARY ON THE GROUND THAT THE POLICE SURVEILLANCE OF TWO CONTROLLED DRUG TRANSACTIONS BETWEEN THE CONFIDENTIAL INFORMANT AND DEFENDANT PROVIDED PROBABLE CAUSE FOR A SEARCH WARRANT INDEPENDENT OF ANY STATEMENTS THE CONFIDENTIAL INFORMANT MADE TO THE POLICE;
County Court, Albany County, convicted defendant, after a jury trial, of two counts of criminal possession of a controlled substance in the third degree, and imposed sentence; App. Div. affirmed.

LEIGHT, et al. v W7879 LLC, et al.:
1ST Dept. App. Div. order of 5/5/15; reversal; leave to appeal granted by App. Div., 7/14/15; Rule 500.11 review pending;
LANDLORD AND TENANT - RENT REGULATION - WHETHER PLAINTIFFS ARE ENTITLED TO A DECLARATORY JUDGMENT THAT THEIR APARTMENTS ARE RENT-STABILIZED - AFTER DEREGULATION ORDER, DID PLAINTIFFS' APARTMENTS BECOME SUBJECT TO RENT REGULATION AGAIN BY VIRTUE OF LANDLORD'S ONGOING RECEIPT OF J-51 BENEFITS; WHETHER DEREGULATION ORDER WAS VOID DUE TO LANDLORD'S ONGOING RECEIPT OF J-51 BENEFITS; COLLATERAL ESTOPPEL;
Supreme Court, New York County, among other things, denied defendants' motion to dismiss with respect to plaintiffs Masten and Wiest; App. Div. reversed, vacated the judgment, granted defendants' motion to dismiss as to plaintiffs Masten and Wiest, declared that the apartments of plaintiffs Masten and Wiest are not rent-stabilized, and directed the clerk to enter judgment accordingly.

STEPHENS (HARVERT), PEOPLE v:
4TH Dept. App. Div. order of 5/8/15; affirmance; leave to appeal granted by Rivera, J., 10/5/15;
CONSTITUTIONAL LAW - VALIDITY OF ORDINANCE - WHETHER A SYRACUSE NOISE CONTROL ORDINANCE WAS UNCONSTITUTIONALLY VAGUE UNDER PEOPLE v NEW YORK TRAP ROCK CORP. (57 NY2d 371 [1982]);
Supreme Court, Onondaga County, convicted defendant, upon a nonjury verdict, of criminal possession of a controlled substance in the third degree, criminal possession of a controlled substance in the fifth degree, and sound reproduction, and imposed sentence; App. Div. affirmed.

VALENTIN (CARLOS), PEOPLE v:
1ST Dept. App. Div. order of 5/7/15; reversal; leave to appeal granted by Saxe, J., 10/15/15;

CRIMES - JUSTIFICATION - INITIAL AGGRESSOR EXCEPTION TO JUSTIFICATION DEFENSE (PENAL LAW § 35.15 [1][b]) - WHETHER THE TRIAL COURT ERRED IN INCLUDING IN THE JURY CHARGE THE INITIAL AGGRESSOR EXCEPTION TO THE JUSTIFICATION DEFENSE - TESTIMONY RAISING AN ISSUE OF FACT AS TO WHETHER DEFENDANT WAS THE FIRST TO USE, OR THREATEN TO USE, DEADLY PHYSICAL FORCE - DEFENDANT SHOT VICTIM SWINGING A MOP HANDLE;
Supreme Court, Bronx County, convicted defendant, after a jury trial, of manslaughter in the first degree, and sentenced him, as a second felony offender, to a term of 20 years; App. Div. reversed, and remanded the matter for a new trial.