

COURT OF APPEALS NEW FILINGS

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

February 28, 2014 through March 6, 2014

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.

FORD (DENNIS), PEOPLE v:
2ND Dept. App. Div. order of 12/4/13; affirmance; leave to appeal granted by Court of Appeals, 2/25/14;
CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) - WHETHER HEARING COURT'S DETERMINATION DESIGNATING DEFENDANT A LEVEL THREE OFFENDER IS SUPPORTED BY CLEAR AND CONVINCING EVIDENCE - WHETHER DEFENDANT WAS PROPERLY ASSESSED POINTS UNDER RISK FACTOR 12 WHERE HE DID NOT PARTICIPATE IN A SEX OFFENDER PROGRAM WHILE INCARCERATED BECAUSE HIS LENGTHY DISCIPLINARY RECORD PREVENTED HIS PARTICIPATION;
Supreme Court, Kings County, after a hearing, designated defendant a level three sex offender pursuant to Correction Law article 6-C; App. Div. affirmed.

LEE, MATTER OF v FISCHER, &c.:

3RD Dept. App. Div. judgment of 1/30/14; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;
PRISONS AND PRISONERS - DISCIPLINE OF INMATES - CHALLENGE TO APPELLATE DIVISION JUDGMENT CONFIRMING DETERMINATION FINDING INMATE GUILTY OF VIOLATING CERTAIN DISCIPLINARY RULES;
App. Div. confirmed a determination of respondent which found petitioner in this CPLR article 78 proceeding guilty of violating certain disciplinary rules.

NIEVES (PHILLIP), PEOPLE v:

Supreme Court order of 12/31/13; sua sponte examination whether a direct appeal lies pursuant to CPLR 5601(b)(2) and whether any civil appeal lies from the order appealed from in this criminal proceeding;
CRIMES - SENTENCE - MOTION TO VACATE SENTENCE (CPL 440.20);
Supreme Court, Bronx County, denied defendant's motion to vacate his sentence pursuant to CPL 440.20.