

CRIMINAL

SECOND DEPARTMENT

***Matter of State of NY v Kerry K.*, 9/2/20 – MHL ART. 10**

The respondent appealed from an order of Suffolk County Supreme Court, entered in a Mental Hygiene Law Article 10 proceeding, which committed him to a secure treatment facility pending a new trial. The Second Department affirmed. In a prior order, the trial court had directed that the respondent be released to the community under strict and intensive supervision and treatment. In the respondent's appeal from that order, the Second Department reversed, holding that the trial court had improperly relied on hearsay evidence in finding that he suffered from a mental abnormality. Pending the new trial, the State moved to re-confine the respondent. In the instant appeal, he contended that, since Supreme Court had already found that he was not a dangerous sex offender requiring confinement, there was no reason for re-confinement pending retrial. The appellate court was "not unsympathetic" to that logic, but found dispositive MHL § 10.06 (k) (where probable cause exists to believe Article 10 sex offender requires civil management due to mental abnormality, court shall order commitment to secure facility until completion of trial).

http://nycourts.gov/reporter/3dseries/2020/2020_04844.htm

APPELLATE TERM, SECOND DEPT.

People v DeSabato, decided 8/27/20, posted 9/8/20 – **DEFAULT / FINES**

The defendant appealed from a judgment of Suffolk County District Court, convicting him of driving on the shoulder and unlicensed operation of a motor vehicle. The Appellate Term, Second Department reversed and remitted. When the defendant and counsel failed to appear for the scheduled trial, the court entered judgments on default and sentenced the defendant to fines. That was error. When a person has pleaded not guilty and demanded a hearing, no fine may be imposed prior to a hearing. Scott Lockwood represented the appellant.

http://nycourts.gov/reporter/3dseries/2020/2020_51011.htm