People v. O.S. (Roch. City Ct., 4/21).

MR. CORLETTA OBTAINS DISMISSAL OF ASSAULT CHARGE DUE TO INSUFFICIENT FACTUAL ALLEGATIONS.

It is disturbing that people are often improperly jailed, even for a day, based upon accusations that fail to meet statutory and Constitutional muster. Such was the case in **People v. O.S.** (Roch. City Ct., 4/21).

In that case, Mr. Corletta's client was charged with Reckless Assault. The Information, which must contain nonhearsay factual allegations of an evidentiary character supporting each and every element of the offense charged, contained conclusory allegations regarding Defendant's intent and the alleged victim's injuries. Defendant was incarcerated for over a day before being arraigned and released on recognizance.

To make matters worse, the District Attorney demanded a plea up front with mandatory "mental health treatment", based solely upon the accusations of the alleged victim.

Defendant was not referred for mental health treatment or examination upon arrest, nor did police indicate Defendant acted erratically, resisted, or appeared impaired.

Further, there was a lack of any medical proof the alleged victim was actually injured.

Immediately recognizing on these arguments, Mr. Corletta filed a Motion to Dismiss, alleging the Accusatory Instrument was insufficient, and did not warrant the case going forward. The Assistant District Attorney persisted in her position, relying on the accusations of the alleged victim instead of what the police said, and lacking any proof from a mental health professional that Defendant was impaired. Her legal arguments failed to answer Mr. Corletta's objections, and were of a boilerplate nature.

The Court granted Mr. Corletta's Motion, dismissing the charge against his client, who was a professional. The client has already moved

in order to get away from the alleged victim who was harassing the client and who initiated the altercation to begin with. The client was quite grateful for Mr. Corletta's aggressive intervention.