

## **CASE ISSUE STATEMENTS - FEBRUARY 2026**

**The calendar is subject to change. Please contact the Clerk's Office for any updated information.**

**If available, briefs, records and appendices can be viewed and downloaded from the Court of Appeal Public Access and Search System (Court-PASS), which is accessible from the home page on the Court's website.**

***TUESDAY, FEBRUARY 10***

### **Matter of Claim of Gonzalez (No. 15)**

APL 2025-56

Workers' Compensation—Counsel Fees—Whether the requests by counsel for claimant for fees payable from penalties awarded to claimant were properly denied; whether Workers' Compensation Law § 24 provides for an award of counsel fees payable from a late payment penalty imposed on a carrier under Workers' Compensation Law § 25.

### **People v Bender (Donald) (No. 16)**

APL 2025-87

Crimes—Reckless Endangerment—Whether defendant's conviction of reckless endangerment in the first degree is supported by legally sufficient evidence, including proof that defendant acted with depraved indifference to human life; Whether the conviction may be reduced to reckless endangerment in the second degree and remitted for resentencing as a lesser included crime if there is legally insufficient evidence to support the first-degree conviction and defendant did not request the charge; whether the trial court erred by prohibiting defendant from offering certain psychiatric evidence.

### **Granath v Monroe County (No. 17)**

APL 2025-98

Motor Vehicles—Whether there are triable issue of facts whether defendant sheriff deputy operated their vehicle with reckless disregard for the safety of others in violation of New York Vehicle and Traffic Law § 1104 when entering an intersection without the right-of-way and collided with plaintiff's vehicle.

### **People v Gaffney (Luke J.) (No. 18)**

APL 2025-77

Crimes—Right to Counsel—Whether trial counsel was ineffective for failing to object to the verdict as repugnant.

***WEDNESDAY, FEBRUARY 11***

**People v Tyson (Kenneth) (No. 19)**

APL 2025-75

Crimes—Right to Speedy Trial—Whether County Court properly granted defendant’s motion to dismiss indictment charging him with aggravated harassment of an employee by an incarcerated individual on the ground that he was denied his constitutional right of due process as a result of preindictment delay.

**People v Jones (Joseph C.) (No. 20)**

APL 2025-86

Crimes—Unlawful Search and Seizure--Whether physical evidence should have been suppressed because parole officers lacked a reasonable belief that defendant was the person for whom they had an arrest warrant; whether the reasonable belief test under *People v Tejada* (270 AD2d 655 [3d Dept 2000]) is the same as the reasonable suspicion test under *People v De Bour* (40 NY2d 210 [1976]).

**People v Miller-Henderson (Lashawn) (No. 21)**

APL 2025-62

Crimes—Proof of Prior Convictions—Whether the trial court erred in permitting the People to introduce evidence of defendant’s prior conviction of attempted criminal possession of a controlled substance in the third degree; Crimes—Right to Counsel—Whether defendant was denied the effective assistance of counsel.

**People v Curry (Eugene) (No. 22)**

APL 2025-76

Crimes—Sentence—Whether in the absence of a written declaration of delinquency under CPL 410.30, an admission to a violation of probation tolls the probationary period under Penal Law § 65.15 (2) such that a court has jurisdiction to revoke the term of probation and resentence a defendant under CPL 410.70 (5) after the probationary period has elapsed; whether counsel was ineffective for failing to object to resentencing.

***THURSDAY, FEBRUARY 12***

**People v Lewis (Jarvis) (No. 23)**

APL 2025-26

Crimes—Right to Counsel—Whether defendant was deprived of the right to a fair trial due to the ineffective assistance of counsel and the denial of his request for new counsel prior to trial; whether the trial court erred in convicting and sentencing defendant on duplicitous charges of criminal possession of a weapon in the second degree in violation of Penal Law § 265.03 (3); whether the trial court erred in denying defendant’s request for a CPL 730 examination prior to the start of trial; whether the trial court erred in imposing consecutive sentences of incarceration and imposing a sentence that was unduly harsh and excessive.

**People v Billups (Ricky) (No. 24)**

APL 2025-108

Crimes—Sentence—Concurrent and Consecutive Terms—Whether the sentence for criminal possession of a weapon was properly run consecutively to sentences for other crimes under Penal Law § 70.25 (2) and *People v Brown* (21 NY3d 739 [2013]).

**People v Sabb (Jhajuan) (No. 25)**

APL 2025-125

Crimes—sentence—concurrent and consecutive terms—Whether consecutive sentences imposed by Supreme Court, in accordance with the terms of the plea agreement, were unlawful because there is no evidence in the record to show the victims were wounded by separate and distinct acts; whether information in a presentence report may be considered when imposing consecutive sentences pursuant to a plea agreement.