State of New York
Court of Appeals

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To be argued Wednesday, May 14, 2025

No. 53 People ex rel. Welch v Maginley-Liddie

Christopher Ortiz was charged with attempted murder in the Bronx in 2022, then was released on bail. While still out on bail in the Bronx case in 2023, Ortiz was arrested in Queens on felony charges of possession of stolen property and identity theft. He and two accomplices allegedly stopped a man's car, drove him to a bank and made him withdraw $1,000, then took the cash and his debit card.

At his arraignment, the prosecutor applied to set bail under Criminal Procedure Law (CPL) 510.10(4)(t), a 2020 amendment called the "harm on harm provision," which gives judges discretion to set bail "where the principal stands charged with a qualifying offense." It states that a "principal stands charged with a qualifying offense" when charged with "any felony or class A misdemeanor involving harm to an identifiable person or property ... where such charge arose from conduct occurring while the defendant was released on his own recognizance [or] released under conditions ...for a separate felony or class A misdemeanor involving harm to an identifiable person or property." It further provides that "the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime." Criminal Court set cash bail at $50,000, which Ortiz was unable to post.

Ortiz's attorney, Danielle Welch, brought this habeas corpus petition on his behalf at the Appellate Division, Second Department, arguing that CPL 510.10(4)(t) did not apply to him because, in the underlying Bronx case, he had not been "released on his own recognizance [or] released under conditions," but instead had posted bail. Ortiz says that "throughout the statute, 'conditions' is used as a specific term of art relating to restrictions imposed upon a person as an alternative to – or in addition to – cash bail." Even if the statute would otherwise apply to a defendant charged with a qualifying offense while free on bail for a prior offense, he argues the prosecution failed to establish reasonable cause to believe he committed the underlying Bronx offense because it relied solely "on the existence of an out-of-county indictment appearing on a RAP sheet."

The Appellate Division dismissed his application for the writ, saying CPL 510.10(4)(t) authorized bail on the Queens charges because Ortiz "was charged with felony offenses that 'arose from conduct occurring' while he was 'released under conditions' of monetary bail on separate felony charges.... [Ortiz], in contending that CPL 510.10(4)(t) is applicable only to principals released on their own recognizance or released under non-monetary conditions, seeks to read the term 'non-monetary' into the statute, excluding bail as a condition. However, CPL 510.10(4)(t) is the only statute within CPL article 510 to use the term 'conditions' without the use of the modifier 'non-monetary,' evidencing the intent of the Legislature to apply that statute to all conditions of release rather than only non-monetary conditions."

For appellant Ortiz: Danielle Welch, Kew Gardens (646) 430-0699
For respondent Maginley-Liddie: Queens Asst. Dist. Atty. William H. Branigan (718) 286-6652

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To be argued Wednesday, May 14, 2025

No. 54 People ex rel. Ellis v Imperati

Michael Cavagnolo was charged with making a terroristic threat in March 2024, after he allegedly called the emergency line at the Hyde Park Police Department multiple times, threatening to kill police officers and their families and blow up the police building. At his bail hearing, he argued the court lacked authority to set bail under Criminal Procedure Law (CPL) 510.10(4) because subdivision (g) of the statute specifically excludes making a terroristic threat as a bail-qualifying offense. The prosecutor argued that subdivision (a) of the statute makes a terroristic threat a bail-eligible offense along with other violent felonies enumerated in Penal Law § 70.02.

Dutchess County Court set cash bail at $50,000. In light of subdivision (a), which makes violent felonies eligible for bail, the court said "it does seem to defy logic to me that a threat of this kind would have been excluded" in subdivision (g). "I'm going to err on the side of caution in light of the discrepancy in the statute to find this to be a qualifying offense that it had to have been a mistake. It makes zero sense to me that this would be excluded as a bail-eligible offense in light of the fact that it is a violent felony."

Cavagnolo's attorney, Andrew Ellis, filed this petition for a writ of habeas corpus on his behalf against Dutchess County Sheriff Kirk Imperati, seeking his release on nonmonetary conditions on the ground that making a terroristic threat was not a qualifying offense for bail.

The Appellate Division, Second Department granted the writ on a 3-1 vote and ordered Cavagnolo released on his own recognizance, subject to conditions. The court said CPL 510.10(4) "provides conflicting provisions as to whether making a terroristic threat constitutes a qualifying offense for which bail may be fixed." Invoking the principle that when there is a general and a specific provision in the same statute, the general applies only where the particular does not, it said subdivision (a) "is a general provision insofar as it provides that all violent felony offenses, with two exceptions, constitutes qualifying offenses" and subdivision (g) "is specific insofar as it expressly exempts making a terroristic threat ... from the list of violent felony offenses that constitute qualifying offenses. Applying this principle of statutory construction, the specific provision of CPL 510.10(4)(g) that expressly exempts making a terroristic threat from the list of ... qualifying offenses controls." It said the contrary view "would render that provision's exclusion of making a terroristice threat superfluous...."

The dissenter said the conflict between subdivisions (a) and (g) is "a conflict between two specific provisions" which renders the statute ambiguous, and the favored interpretation "is the one which will not cause objectionable results." "I find it significant that [subdivision (a)] expressly excepts two violent felony offenses, but does not except making a terroristic threat," supporting "the conclusion that, '[i]f the legislature had intended to exempt the violent felony offense of making a terroristic threat, it would have been included in the exclusionary language' in paragraph (a). Thus, the language of paragraph (a) reflects a legislative intent to include making a terroristic threat a qualifying offense."

For appellant Imperati: Dutchess County Assistant District Attorney Anna Diehn (845) 486-2300
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State of New York
Court of Appeals

To be argued Wednesday, May 14, 2025

No. 55 People v Christopher Baldner

Christopher Baldner was a State Police trooper in December 2020, when he engaged in a high speed chase on the Thruway in Ulster County that resulted in the death of an 11-year-old girl. He had stopped an SUV driven by Tristan Goods for speeding and the two men began arguing. Baldner pepper-sprayed the passenger cabin and Goods took off at high speed with his wife and two daughters. Baldner caught up to Goods and, without activating his siren, struck the rear of the SUV with his bumper at 130 miles per hour. The SUV fishtailed, but drove on, and Baldner struck it again, this time at 100 miles per hour, causing Goods to lose control. The vehicle flipped over and came to rest upside down beside the roadway; the girl's body was found in the wreckage. Baldner told a dispatcher and a sergeant that the SUV initiated both collisions.

Baldner was involved in a similar chase in September 2019, when he stopped a speeding minivan driven by Jonathan Muthu on the same stretch of Thruway. Muthu, who had marijuana in his van, fled the traffic stop with two adult passengers. Baldner caught up and struck the rear of the minivan, causing it to spin off the roadway and hit the guardrail. Baldner then drove head-on into the minivan, pulled his gun, and ordered Muthu and his passengers to lie on the ground. He reported that Muthu had initiated contact with his car when Muthu lost control.

Baldner was indicted for second-degree murder and six counts of first-degree reckless endangerment, all based on the theory that he acted with depraved indifference to human life.

County Court granted his motion to dismiss the murder charge and reduce the reckless endangerment counts to second-degree, finding there was no evidence of depraved indifference, "which reflects a wanton cruelty, brutality or callousness, combined with an utter indifference to whether a victim lives or dies." It said "the evidence rationally supports only the conclusion that this defendant ignored agency protocols and exercised extremely poor judgment in a foolish attempt to perform his job as a police officer as he saw it – in short, that he acted recklessly."

The Appellate Division, Third Department reversed on a 4-1 vote and reinstated the depraved indifference murder and reckless endangerment charges, saying, "Although 'the mens rea of depraved indifference will rarely be established by risky behavior alone'..., intentionally colliding with occupied vehicles traveling 70 to 100 miles per hour comes close.... Viewed in the light most favorable to the People..., the grand jury could rely on ... evidence indicating that, after both incidents, 'defendant exhibited no signs of remorse for the results of his recklessness' as proof that he hit the minivan in 2019 and the SUV in 2020 with an utter disregard for the value of the human lives within them...."

The dissenter said "the grand jury could readily conclude that defendant acted recklessly in both incidents by executing unauthorized maneuvers to end the chases and placing the occupants of the vehicles he was pursuing at risk of death," but argued the evidence fell well short of establishing depraved indifference. "Attempting to end a dangerous high-speed chase, even if accomplished in a manner that places the occupants of the fleeing vehicle at risk, 'permits only the inference that defendant, while reckless, consciously avoided risk, which "is the antithesis of a complete disregard for the safety of others"....'

For appellant Baldner: John Ingrassia, Newburgh (845) 566-5345
For respondent: Assistant Deputy Attorney General Matthew Keller (212) 416-8022

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To be argued Wednesday, May 14, 2025

No. 56 Matter of Parents for Educational and Religious Liberty in Schools v Young

The petitioners – Parents for Educational and Religious Liberty in Schools (PEARLS) and two other organizations representing Jewish day schools and parents of their students, and five yeshivas – brought this suit against the State Education Department (SED) and its Commissioner to challenge new regulations governing the assessment of whether religious and private schools are providing "substantially equivalent" instruction to that offered by local public school districts as required by the state's compulsory education law, Education Law article 65. The law was amended in 2018 to establish criteria for assessing the substantial equivalency of certain nonpublic schools and to empower the Education Commissioner to make the determination. The challenged regulations took effect in 2022.

Supreme Court found the new regulations to be valid except for two provisions, 8 NYCRR 130.6(c)(2)(I) and 130.8(d)(7)(I), which provide that when a nonpublic school is found not to be providing substantially equivalent instruction, it "shall no longer be deemed a school which provides compulsory education fulfilling the requirements of" the Education Law and the parents of those students must "enroll their children in a different appropriate educational setting, consistent with Education Law § 3204." The court said those provisions conflict with the purpose of the compulsory education law and exceed SED's rule-making authority because they "force parents to completely unenroll their children from a nonpublic school that does not meet all of the criteria for substantial equivalency, thereby forcing the school to close its doors."

The Appellate Division, Third Department modified on a 4-1 vote by declaring those regulations valid. It said they are "a direct, measured exercise of the Commissioner's vested authority to determine whether a nonpublic school is in compliance with the substantial equivalency requirement, and to supervise the enforcement of this standard." It said "the loss of status as a substantially equivalent nonpublic school is not equivalent to closure; the institutions may in fact continue to operate and provide some form of instruction. Contrary to the concerns raised in the dissent, the Education Law, and the corresponding regulations, do not limit the parents' opportunity to enroll their children in any extracurricular instruction or activities that they deem appropriate and helpful ... –the sole limitation is that the statutory mandate must be met."

The dissenter said, "The Education Law has consistently placed the burden of ensuring that children receive an appropriate education upon their parents and guardians – not schools – and the statutory amendments which eventually led to the regulations at issue here did not authorize consequences for nonpublic schools that are deemed to provide less than a substantially equivalent education." He said "the statutory framework affords parents ... wide discretion in fashioning an acceptable program of instruction, be it in a nonpublic school, homeschooling or a mixture of the two, that fulfills their duty of providing an education to children under their care that is substantially equivalent to that available in public schools...," but does not authorize SED to withhold funds from non-equivalent schools or require parents to enroll children elsewhere.

For appellants PEARLS et al: Avi Schick, Manhattan (212) 248-3140
For respondents State Ed et al:: Assistant Solicitor General Beezly J. Kiernan (518) 776-2023