

State of New York Court of Appeals

Summaries are prepared based on the parties' briefs and are for background purposes only.

To be argued Thursday, April 16, 2026

Garcia v Monadnock Construction (235 AD3d 96 [AD1])
Court PASS Docket No. APL-2025-00074

Waldy Garcia claims he injured his neck and back while working at a construction site at 425 Grand Concourse in the Bronx. Mr. Garcia sought Workers' Compensation benefits, and on September 28, 2020, he separately commenced this Labor Law action against Monadnock Construction and others seeking to recover for his injuries. In 2021, a Workers' Compensation Board (WCB) panel determined that Mr. Garcia did *not* sustain neck or back injuries from the accident.

On December 30, 2022, the Justice for Injured Workers Act (JIWA) took effect. JIWA provides that WCB determinations—other than a determination that a claimant is an employee of the employer—“shall not be given collateral estoppel effect” in related actions.

In this Labor Law action, Monadnock Construction moved to dismiss the neck and back claims based on collateral estoppel, arguing that the issues had already been fully litigated and decided by the WCB. Mr. Garcia argued that JIWA applied to his Labor Law case and his neck and back claims could not be dismissed based on the WCB decision.

The trial court disagreed with Mr. Garcia's argument, saying that JIWA did not apply to his case because the WCB decision was issued before JIWA became law and the Legislature did not authorize retroactive application. The court therefore dismissed the neck and back claims based on the WCB's findings.

On appeal, the Appellate Division, First Department, reversed, holding that JIWA applies retroactively to cases—like Mr. Garcia's—that were pending when the law was enacted. The Appellate Division reasoned that the law is remedial and enacted to correct what the Legislature viewed as an injustice created by decisions that applied collateral estoppel to “swift” and “cursory” workers' compensation proceedings.

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To be argued Thursday, April 16, 2026

People v Kenneth Townsend (233 AD3d 548 [AD1])
Court PASS Docket No. APL-2025-00120

Kenneth Townsend's criminal history includes a 2004 attempted-robbery conviction, a 2016 attempted-assault conviction, numerous misdemeanor convictions, and repeated parole violations. In 2013 and 2015, he was convicted of forcible touching; the 2015 incident involved a 15-year-old. Based on the 2015 conviction, he was adjudicated a level two sex offender.

Mr. Townsend was later convicted of Persistent Sexual Abuse (Penal Law §130.53) for a January 2020 incident in Penn Station, during which he grabbed a stranger's buttocks. He was eligible for the persistent sexual abuse charge because of his 2013 and 2015 forcible touching convictions.

For the Persistent Sexual Abuse conviction, the Board of Examiners of Sex Offenders assessed Mr. Townsend 65 points on the Risk Assessment Instrument (RAI), within the lowest range (level one). The People requested an upward departure to level two based on his extensive criminal history, repeated sexual offenses, and continued reoffending despite sanctions and prior registration.

The SORA court accepted the RAI score but granted the People's request for an upward departure, finding Mr. Townsend's pattern of sexually motivated offenses over a short period of time, his repeated criminal conduct while under supervision, and his prior level two adjudication demonstrated a higher risk not captured by the RAI.

On appeal, Mr. Townsend argued that the court's cited factors for an upward departure were already incorporated into RAI Factors 9 and 10 and thus could not justify an upward departure.

The Appellate Division, First Department, unanimously affirmed, holding that the People had identified aggravating factors not adequately accounted for in the RAI—specifically Mr. Townsend's extensive history of sex and non-sex offenses, rapid reoffending after release, and prior level two sex offender designation.

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To be argued Thursday, April 16, 2026

People v Hikeem Green (229 AD3d 814 [AD2])
Court PASS Docket No. APL-2025-00119

In 2013, Hikeem Green pleaded guilty to two counts of sex trafficking and was sentenced to prison. Before his release, the Board of Examiners of Sex Offenders assessed 130 points on the Risk Assessment Instrument (RAI), within the highest, level three, range. Mr. Green sought a downward departure.

At a 2019 SORA hearing, the court assessed 115 points, denied the downward departure, and adjudicated Mr. Green a level three sex offender. On appeal, the Appellate Division, Second Department, remitted the case for a new hearing on, among other things, the downward departure request.

At a 2023 rehearing, Mr. Green presented evidence of full-time employment, a committed relationship, supportive family ties, and completion of specialized treatment. The court again denied a downward departure and designated Mr. Green a level three sex offender.

In 2024, the Appellate Division affirmed, holding that the guidelines adequately accounted for family support and employment and that Mr. Green failed to show these factors reduced his likelihood of reoffense.

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To be argued Thursday, April 16, 2026

People v Elijah Carnegie (233 AD3d 902 [AD2])
Court PASS Docket No. APL-2025-00118

People v Anthony Dockery (233 AD3d 808 [AD2])
Court PASS Docket No. APL-2025-00117

On August 23, 2016, in North Carolina, Elijah Carnegie, then 19 years old, forcibly raped a victim at gunpoint. He pleaded guilty to forcible rape in the second degree and was sentenced to 6 to 12 years in prison. Upon his release and the transfer of his parole to New York, he was adjudicated a level two sex offender.

On March 2, 1992, Anthony Dockery robbed and attempted to rape a victim at knifepoint. On April 11, 1992, he robbed and attempted to rape another victim at gunpoint. He was convicted of robbery in the first degree, attempted rape in the first degree, sexual abuse in the first degree, and assault in the second degree, and was sentenced to 24 ½ to 50 years in prison. Upon his release, he was adjudicated a level three sex offender.

For Mr. Carnegie and Mr. Dockery, the Board of Examiners of Sex Offenders assessed 10 points under risk factor 8 on the Risk Assessment Instrument (RAI), assigning points based on the offender's age at the time of the first sex crime. Mr. Carnegie and Mr. Dockery both sought a downward departure from their presumptive risk levels, citing mitigating factors that included their young age at time of offenses and the presence of strong family support. Both relied on modern scientific research to argue that their age at the time of the offense should be treated as a mitigating factor—reducing, rather than increasing, the risk of reoffense.

In each case, the SORA courts and Appellate Division held that the proposed mitigating factors were already accounted for in the SORA guidelines and, therefore, did not warrant any downward departure.