State of New York
Court of Appeals

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

To be argued Tuesday, January 6, 2026

Cruz v Banks (134 F4th 687 [2nd Cir])
Court PASS Docket No. CTQ-2025-00002

Pursuant to the Individuals with Disabilities Act, plaintiff Neysha Cruz, on behalf of her child O.F., challenged the New York City Department of Education's (DOE) recommendation to place O.F in a twelve-student classroom. Cruz argued that the DOE violated a New York regulation requiring placement in a classroom of no more than six students.

The relevant regulation, 8 NYCRR § 200.6(h)(4), sets maximum class sizes for students with disabilities based on their educational needs. Subdivision (ii)(a) mandates a six-student maximum for students whose management needs are deemed "highly intensive" and require a high degree of individualized attention and intervention. Subdivision (iii) allows a twelve-student maximum for students with "severe multiple disabilities" whose programs consist primarily of habilitation and treatment.

Cruz argued that because O.F. has both "highly intensive" management needs and "severe multiple disabilities," the DOE must comply with both subsections and place O.F. in a classroom of no more than six students. The DOE argues that the regulation provides a continuum of classroom types and the Committee on Special Education (CSE) must use its clinical expertise to determine which best fits the student's needs. The DOE asserts that the simultaneous compliance with multiple subsections is not required.

The State Review Officer upheld the placement. The District Court affirmed, citing federal precedent supporting the DOE's discretion to choose among classroom types. The Second Circuit certified the following question to the New York Court of Appeals:

> "When a student is covered by more than one class size regulation under § 200.6(h)(4), do the varying restrictions serve as distinct requirements that must be independently fulfilled or as a list of class size options from which the DOE may pick?"

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To be argued Tuesday, January 6, 2026

People v Carlos Galindo (78 Misc3d 134[A] [App Term 2d, 11th, 13th])
Court PASS Docket No. APL-2024-00144
**case materials not available on Court-PASS, contact Clerk's Office*

In January 2014, police found Carlos Galindo was asleep in the driver's seat of a parked car in Queens, with the engine and headlights on and an open beer bottle in hand. The car was stuck in a snowbank near a fire hydrant. Mr. Galindo, who did not have a driver's license, had been drinking and said he went to the car to listen to music and stay warm, but was not going to drive the car. His son corroborated this account. Police arrested Mr. Galindo for operating a motor vehicle while intoxicated and other related offenses.

Under New York's Vehicle and Traffic Law (VTL), "operation" requires the intent to move the vehicle. Defense counsel submitted a proposed jury instruction that said: "You must find beyond a reasonable doubt that he started the motor 'for the purpose of putting the automobile into motion.' In other words, you must find, as a factual matter, beyond a reasonable doubt that he intended to drive the vehicle and not merely occupy it."

The trial court instructed the jury using the standard Criminal Jury Instructions (CJI) definition of "operation," that says: "A person . . . operates a motor vehicle when such person is sitting behind the wheel of a motor vehicle for the purpose of placing the vehicle in motion and when the motor vehicle is moving, or even if not moving, the engine is running."

The jury convicted Mr. Galindo of unlicensed operation (VTL §509[1]) and consumption of alcohol in a motor vehicle (VTL §1227[1]). On appeal, Mr. Galindo argued that the trial court erred by refusing to give a tailored jury instruction clarifying that "operation" requires intent to move the vehicle. He also claimed a mode-of-proceedings error occurred when the court failed to read a jury note verbatim, which asked whether "operation" could be found solely if the engine was running.

The Appellate Term affirmed the convictions, finding the evidence legally sufficient and the verdict not against the weight of the evidence.

State of New York
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To be argued on Tuesday, January 6, 2026

People v Agustin Morel (81 Misc3d 138[A] [App Term, 1st])
Court PASS Docket No. APL-2024-00086

Agustin Morel was charged with Operating a Vehicle While Ability Impaired by Drugs (VTL § 1192[4]). On February 17, 2015, at about 11:48 p.m., a police officer pulled over the car Mr. Morel was driving. In the accusatory instrument, the police officer stated "I know the defendant was under the influence of drugs because I smelled an odor of marijuana coming from the defendant's clothing, I observed that the defendant had watery and bloodshot eyes, and I observed that the defendant had ash containing marijuana on his pants. The defendant stated, in substance: I had two puffs of marijuana before you stopped me." The police officer further stated that they knew the ash contained marijuana based on their training, experience, and the odor. The police officer concluded that they advised defendant of his right to take a urine drug test and defendant refused to take the test.

Mr. Morel moved to dismiss the accusatory instrument as facially insufficient as it did not provide reasonable cause that Mr. Morel's ability to operate the motor vehicle was impaired. Mr. Morel argued that allegations of marijuana odor, ash, and bloodshot eyes do not establish impairment of motor or cognitive skills or unsafe driving. In other words, according to Mr. Morel, VTL §1192(4) is effects-based, requiring proof of impairment, not mere use. Turning it into a "zero tolerance" law contradicts legislative intent.

The People countered that the complaint plus the sworn "Report of Refusal" established impairment: marijuana use, physiological signs (bloodshot eyes), traffic violations, and refusal to test. Erratic driving or overt symptoms are not required, the People asserted, because the statute focuses on ability impairment, not actual bad driving.

The trial court denied the motion and the Appellate Term affirmed. Both courts relied on *People v Cruz (*48 NY2d 419), an alcohol-related driving offense case where the Court of Appeals held a person's ability to operate a motor vehicle is impaired by alcohol when the person "has actually impaired, to any extent, the physical and mental abilities which he is expected to possess in order to operate a vehicle as a reasonable and prudent driver." Because impairment means any extent of diminished ability, the Appellate Term held that erratic driving or overt symptoms are not required.

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To be argued Tuesday, January 6, 2026

People v Phillip Dondorfer (235 AD3d 71 [AD4])
Court PASS Docket No. APL-2025-00059
**case materials not available on Court-PASS, contact Clerk's Office*

Just after midnight on July 14, 2022, Phillip Dondorfer was driving with his 15-year-old child as a passenger when police stopped his car for an expired inspection sticker. Mr. Dondorfer smelled of alcohol and marijuana, failed several field sobriety tests, and admitted to drinking alcohol and using marijuana. A drug recognition expert arrived on scene and concluded Mr. Dondorfer was impaired by alcohol and cannabis.

A grand jury indicted Mr. Dondorfer on a class E felony under Leandra's law: Aggravated Driving While Intoxicated with a Child (Vehicle and Traffic Law §1192[2-a][b]), predicated on Driving While Ability Impaired by the Combined Influence of Drugs or Alcohol and Any Drug or Drugs (§1192[4-a]), while a child under 15 was in the vehicle.

County Court dismissed the felony count, ruling that the People misinstructed the grand jury on the definition of "impaired" in VTL § 1194[4-a]. The People used the *People v Cruz* (48 NY2d 419) definition of "impaired." In *Cruz*, the Court of Appeals distinguished between two alcohol-related offenses: Driving While Intoxicated and Driving While Ability Impaired. The court held that a person's ability to operate a motor vehicle is impaired by alcohol when the person "has actually impaired, to any extent, the physical and mental abilities which he is expected to possess in order to operate a vehicle as a reasonable and prudent driver."

County Court, relying on the Appellate Division, Third Decision, decision in *People v Caden N.* (189 AD3d 84 [3d Dept 2020]), held the *Cruz* intoxication standard applied, that is, a person is "incapable of employing the physical and mental abilities which he or she was expected to possess in order to operate a vehicle as a reasonable and prudent driver." In *Caden N.*, the Third Department held that when a motorist is charged with vehicular manslaughter based on impairment by drugs, the term "impaired" has the same meaning as intoxication by alcohol.

On the People's appeal, the Appellate Division, Fourth Department, reversed and reinstated the felony count. Respectfully disagreeing with the Third Department's analysis in *Caden N.*, the Fourth Department here held that "impaired" should have a consistent meaning across the Vehicle and Traffic Law, as defined in *Cruz*.

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To be argued Tuesday, January 6, 2026

People v Jason J. Ambrosio (235 AD3d 1181 [AD3])
Court PASS Docket No. APL-2025-00072

In 2021, a jury convicted Jason Ambrosio of driving while ability impaired by drugs (marijuana) and driving while ability impaired by the combined influence of drugs (marijuana and buprenorphine), both class E felonies under Vehicle and Traffic Law §§1192(4) and (4-a).

Mr. Ambrosio appealed and argued that he was denied the effective assistance of trial counsel. Relying on *People v Caden N.* (189 AD3d 84 [2020]), Mr. Ambrosia argued that he was entitled to, and his attorney should have requested, a jury instruction that incorporated the heightened standard of intoxication by alcohol. Instead, his attorney requested, and County Court charged, the jury instruction for impairment, as defined in *People v Cruz* (48 NY2d 419).

The Appellate Division, Third Department, in a 4-1 decision, rejected the ineffective assistance of counsel claim. The court stated that its holding in *Caden N.* was expressly limited to the crime of vehicular manslaughter and did not extend to VTL §§1192(4) or (4-a). The court explained that "if it had also wished to apply the new definition of impairment to the underlying crime of driving while ability impaired by drugs or by a combination thereof, it surely would have explicitly said as much." The majority concluded, in the absence of any clear legal authority, "it cannot be said that any reasonable defense counsel would have requested the intoxication instruction in place of the impairment instruction and counsel was not ineffective for failing to do so."

The dissenting Justice reasoned that *Caden N.* provided appellate authority for trial counsel to seek a charge using the heightened standard but concluded that it was difficult to characterize *Caden N.* as so clear-cut that counsel's failure to do so was constitutionally ineffective. The Justice concluded, however, that County Court's failure to charge the jury with the heighted standard deprived defendant of a fair trial.