

# State of New York Court of Appeals

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

To be argued Wednesday, January 7, 2026

**Matter of Russell v Town of Mount Pleasant** (227 AD3d 1083 [AD2])  
Court PASS Docket No. APL-2025-000017

James C. Russell, a resident of the Town Mount Pleasant, filed a Freedom of Information Law request (FOIL) pursuant to the Public Officers Law, seeking the names and email addresses of residents subscribed to the Town's "E-News" alerts. Mr. Russell stated he would use the information to communicate with Town residents about current events, and that he would not reproduce, redistribute or circulate the names or email addresses, nor use the information for solicitation, fund-raising or any commercial purpose.

The Town Supervisor told Mr. Russell that he was uncomfortable sharing the information without having the consent of the residents who subscribed to the news alerts. The Town did not provide Mr. Russell with the email list, and Mr. Russell commenced this CPLR article 78 proceeding to require the Town to do so.

The trial court ordered the Town to provide the email list to Mr. Russell, subject to the same conditions prohibiting solicitation and commercial use. The court said that the Town failed to demonstrate that any exemption under FOIL (*see* Public Officers Law § 89[2][b]) applied and did not show that the privacy interests at stake outweighed the public interest in disclosure.

On appeal, the Appellate Division, Second Department, affirmed. It agreed that the Town had not established that any exemption under section 89(2)(b) applied and failed to show that privacy concerns outweighed the public interest. The court rejected the Town's argument that disclosure would expose subscribers or the Town to cybersecurity risks, calling that claim speculative.

# State of New York Court of Appeals

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

To be argued Wednesday, January 7, 2026

**Matter of Mekayla S. and Gabriel H.** (229 AD3d 1040 [AD4])

Court PASS Docket No. APL-2025-00011 *\*case materials not available*

The Erie County Department of Social Services (DSS) petitioned Family Court for findings that Melanie H. abused her daughter and derivatively abused her son, based on allegations that Melanie H.'s live-in boyfriend sexually abused the daughter in their home.

DSS sought to introduce videos purportedly depicting the abuse. An FBI Special Agent testified that, during an unrelated child pornography investigation, a suspect informed the FBI about the videos. The suspect claimed to have hacked into an interior home security camera and observed an adult male sexually abusing a child. The FBI retrieved the videos and login details for the security camera from the suspect's computer.

Upon further investigation, the FBI and New York State Police determined that the videos originated from a security camera installed in Melanie H.'s home. A New York State Trooper testified that he corroborated the identities of the individuals in the videos as Melanie H.'s live-in boyfriend and her daughter. The live-in boyfriend denied that he abused the daughter; the daughter said the live-in boyfriend did not abuse her.

Family Court admitted the videos into evidence, finding them authenticated. Although Melanie H. did not have actual knowledge of the abuse, the court concluded that Melanie H. abused the daughter because she "knew or should have known" of the abuse.

The Appellate Division, Fourth Department, in a 3-1 decision, affirmed. The majority held that there was a sufficient foundation to admit the videos, noting that the proof established the evidence "is genuine and that there has been no tampering with it." The court explained that a video may be authenticated by testimony from a witness to the recorded events or from an operator, installer, or maintainer of the equipment that the video "accurately represents the subject matter depicted." It further held that, as occurred here, a video may also be authenticated by testimony, expert or otherwise, that the video "truly and accurately depicts what was before the camera."

Presiding Justice Whalen dissented, concluding that the videos should not have been admitted given law enforcement's inability to testify about their accuracy or possible editing and the lack of personal knowledge regarding how the suspect obtained them.

# State of New York Court of Appeals

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

To be argued Wednesday, January 7, 2026

**People v Errick Guerrero** (235 AD3d 1276 [AD4])

Court PASS Docket No. APL-2025-00069

*\*case materials not available on Court-PASS, contact Clerk's Office*

In 2021, 17-year-old Errick Guerrero and three others entered a Syracuse home intending to steal cash and drugs. When they did, a resident was struck with the butt of his own shotgun. Mr. Guerrero was indicted for the violent felonies of Robbery in the First Degree (PL §160.15[3]) and two counts of Burglary in the First Degree (PL §140.30[2], [3]).

Under New York's Raise the Age Law (CPL 722.23), cases involving 16 and 17-year-old adolescent offenders are presumptively transferred from criminal court to Family Court. Violent felony cases are also transferred unless the adolescent offender caused significant physical injury, displayed a deadly weapon, or engaged in sexual conduct. The law allows prosecutors to block transfer by proving "extraordinary circumstances," a term left undefined by the statute.

In Mr. Guerrero's case, the People moved to prevent transfer, arguing the dangerous nature of the crime constituted extraordinary circumstances. The People also asserted that removal would undermine public confidence and that Mr. Guerrero—who had eight prior Family Court appearance tickets and two prior adjudications—was not amenable to Family Court services.

County Court granted the motion, and a jury later convicted Mr. Guerrero of the violent felonies. He appealed.

The Appellate Division, Fourth Department, in a 4-1 decision, affirmed. The majority held County Court did not abuse its discretion in granting the People's motion, citing the totality of the circumstances: Mr. Guerrero "was charged with participating in a violent crime, i.e. a home invasion robbery involving weapons and resulting in injuries to the victim. Moreover, despite the various services and programs provided to [him] over the last five years while [he] has been involved in the criminal justice system, [he] has made no appreciable positive response and continues to engage in escalating criminal behavior." The majority noted that prior juvenile adjudications could not be considered, but the acts underlying them could.

The dissenting Justice said it was improper to consider Mr. Guerrero's response to treatment tied to juvenile adjudications and emphasized that the violent nature of the offense alone cannot constitute extraordinary circumstances. The dissent said that such crimes were precisely those the Legislature intended to address through Raise the Age, and that denials of transfer should remain "extremely rare."

# State of New York Court of Appeals

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

To be argued Wednesday, January 7, 2026

**People v Kelly L. Anderson** (220 AD3d 1223 [AD4])

Court PASS Docket No. APL-2024-00179

*\*case materials not available on Court-PASS, contact Clerk's Office*

In August 2002, Kelly L. Anderson's 16-month-old son died at home. The medical examiner determined the manner and cause of death as homicide by asphyxiation. No criminal charges were filed at that time.

In 2018, authorities renewed the investigation, obtained wiretap warrants, and recorded Ms. Anderson's telephone conversations. In 2020, a grand jury indicted Ms. Anderson on two counts of second-degree murder.

The prosecution's theory was that Ms. Anderson abused and suffocated the child, citing medical evidence, prior bruising, and statements from intercepted calls. Ms. Anderson maintained her innocence, challenging the prosecution's theory as speculative, lacking any direct evidence, and relying on mischaracterized statements.

A jury convicted Ms. Anderson of second-degree murder, and she appealed.

The Appellate Division, Fourth Department, affirmed the conviction, concluding the evidence was legally sufficient and the verdict was not against the weight of the evidence. The court noted that "[a]lthough a different verdict would not have been unreasonable, we cannot conclude that the jury 'failed to give the evidence the weight it should be accorded.'" The court also rejected Ms. Anderson's claim that her trial counsel was ineffective, stating that "[v]iewing the evidence, the law, and the circumstances of the case in totality and as of the time of the representation," Ms. Anderson "received meaningful representation."

# State of New York Court of Appeals

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

To be argued Wednesday, January 7, 2026

**Aras v B-U Realty Corp.** (221 AD3d 5 [AD1])  
Court PASS Docket No. APL-2024-00009

In 2014, current and former tenants of a residential apartment building in New York City commenced this rent overcharge action against the building's owners. From 2005 until 2019, the building received "J-51" real estate tax abatement benefits. Plaintiffs alleged defendants knowingly deregulated apartments and issued market-rate leases during the J-51 period, constituting a fraudulent scheme.

Plaintiffs moved for summary judgment on liability, arguing that defendants engaged in a building-wide fraudulent scheme. Defendants admitted some overcharges based on errors but denied fraud.

Supreme Court granted summary judgment to certain plaintiffs, finding fraud. Based on the fraud determination, the court directed the use of a "default formula" to calculate damages.

On appeal, the Appellate Division, First Department, in a 3-2 decision, held that the record did not establish evidence of a fraudulent scheme to deregulate the apartments and that it was improper to use the default formula.

Applying former provisions of the Rent Stabilization Law, the majority recounted that rent overcharge claims were subject to a four-year statute of limitations and examination of the rental history before the four-year period was precluded. A tenant's overcharge claim was limited to the amount charged on the "base date"—the date four years before tenant filed their complaint—plus any permitted increases. If a landlord engaged in a fraudulent scheme to deregulate or overcharge tenants, courts could review rental history beyond the four-year lookback period and apply the "default formula," which substitutes the lowest comparable stabilized rent in the building for the base date rent.

The majority noted that in *Roberts v Tishman Speyer Props., L.P.* (13 NY 270 [2009]), the Court of Appeals held, contrary to an opinion issued by the Division of Housing and Community Renewal, that luxury deregulation of apartments was not available in buildings receiving J-51 benefits. The majority emphasized that under *Roberts* and subsequent cases, improper deregulation during a J-51 period typically reflects legal misunderstanding, not fraud and plaintiffs neither pleaded nor proved fraud's required elements.

The dissenting Justices pointed out that *Roberts* does not insulate a landlord from a determination that the landlord engaged in a fraudulent scheme to deregulate. The dissent opined that plaintiff raised a triable issue of fact as to a fraudulent scheme. It further concluded that tenants need not prove every element of common-law fraud to invoke the default formula.