

# 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, May 20, 2026

**People v Coggins (Tonie)**

(236 AD3d 608 [AD1])

Court PASS Docket No. APL-2025-00159

On October 11, 2017, Tonie Coggins and her longtime friend engaged in a physical altercation outside a Harlem apartment building. During the fight, the friend sustained a severe eye injury that ultimately resulted in permanent vision loss. The incident was captured on the building's surveillance system and viewed shortly afterward by police officers, building staff, and the friend's sister. However, neither the original security footage nor a cellphone recording made by an NYPD officer survived: the building's system automatically overwrote the video footage after 30 days, and the police-made recording was lost when officers exchanged their department-issued phones.

At a pre-trial hearing on Ms. Coggins' "best evidence" objection to the missing surveillance video, seven witnesses who had viewed the video footage shortly after the incident testified. They generally agreed on the general sequence of events but differed on some details, including whether Ms. Coggins kicked or punched her friend in the face. The trial court ruled that the seven witnesses' testimony was admissible the jury would receive a permissible adverse-inference instruction based on the loss of the video.

Following trial, Ms. Coggins was convicted of assault in the third degree and sentenced to one year in jail.

On appeal, the Appellate Division, First Department, affirmed. The court held that because the surveillance video footage was inadvertently lost and not destroyed in bad faith, the trial court's admission of testimony from the seven witnesses who viewed the video did not violate the best evidence rule. The court observed that although the witness's testimony varied in certain respects, their testimony was largely consistent and reasonably accurate, and all witnesses were subject to cross-examination. Finally, the court concluded that the trial court providently issued a permissive adverse inference charge to counter possible prejudice to Ms. Coggins.

# 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, May 20, 2026

**People v Khiamdavanh (Kham)** (234 AD3d 1353 [AD4])  
Court PASS Docket No. APL-2025-00114

On July 31, 2020, Kham Khiamdavanh fired a single shot from his car during a heated roadway encounter, striking and seriously injuring Haitham Yafai. Mr. Khiamdavanh maintained that Mr. Yafai and two others—Atek Anse and Ali Zubaidi—exited their car, approached his car, banged on the door, and attempted to open it while his two young children were inside. Admitting that he retrieved a revolver from the glovebox of his car, he said when the three men were backing up one of them threw something and another looked like he was pointing something at him. He tried to fire a warning shot, but hit Mr. Yafai, who dropped to the ground. He asserted that all three men acted aggressively and that he fired only out of fear of imminent harm.

At trial, the People called Mr. Zubaidi and Mr. Yafai to testify, but not Mr. Anse. Mr. Zubaidi testified that he was driving a car and Mr. Anse, Mr. Yafai, and his young son were passengers. All three men got out of the car, none had a gun, and he was the most upset. He stated that no one threatened Mr. Khiamdavanh, Mr. Khiamdavanh never left his car, and all three men were getting back into the car when Mr. Khiamdavanh pointed a gun at them and fired. After Mr. Yafai fell to the ground, Mr. Zubaidi drove off to record the defendant's license plate number but did not do so and returned to the scene. On cross-examination, Mr. Yafai stated that he had stopped at a store to drop off his child.

Mr. Yafai testified that all three men exited the car, none had a gun, and that he tried to calm the others down and urged them to leave. He saw Mr. Anse throw an empty cigarette carton at Mr. Khiamdavanh's car. He said he raised his hand to show Mr. Khiamdavanh that they were returning to their car.

Mr. Khiamdavanh requested a missing-witness charge, arguing that Mr. Anse was a material eyewitness whose testimony could have corroborated or contradicted the testimony of Mr. Zubaidi and Mr. Yafai. County Court denied the request, concluding that Mr. Anse's testimony would have been wholly cumulative of the other testimony.

A jury convicted Mr. Khiamdavanh of attempted murder in the second degree, assault in the first degree, and criminal possession of a weapon in the second degree.

On appeal, the Appellate Division, Fourth Department, affirmed, holding that County Court did not abuse its discretion in denying the missing-witness charge.

# 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, May 20, 2026

**State of New York ex rel. Louis M.** (234 AD3d 462 [AD1])  
Court PASS Docket No. APL-2025-00176

On May 14, 2024, NYPD officers arrested Louis M. on three outstanding warrants after observing him acting erratically and walking in traffic while yelling and screaming. Because of his psychiatric condition, officers brought him to Jacobi Medical Center rather than a precinct. Jacobi doctors admitted him involuntarily under Mental Hygiene Law (MHL) § 9.40 to a locked psychiatric unit.

Following NYPD's patrol guide policy, officers remained with Louis M. and kept him in wrist and leg restraints, removing them only briefly for bathroom use. Louis M.'s treating physician requested that the police restraints be removed, but NYPD officers refused.

On May 20, 2024, Louis M. filed a petition for a writ of habeas corpus seeking removal of the restraints.

After a hearing on May 23, 2024, Supreme Court denied the habeas petition, holding that habeas corpus was not the appropriate vehicle for challenging the restraints. The court stated that habeas relief is available only where a person who is allegedly illegally confined would be entitled to immediate release.

On appeal, the Appellate Division, First Department, affirmed. The court observed that the appeal was moot because Louis M. had been released from NYPD custody while the appeal was pending. Nonetheless, the court applied an exception to the mootness doctrine, finding that the matter was likely to recur, typically evades review, and raises substantial or novel legal questions. On the merits, the court held that Supreme Court "correctly denied the habeas petition because [Louis M.] challenged only the conditions of his confinement and did not seek immediate release."

# 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, May 20, 2026

**Walton v Comfort Systems USA** (155 F4th 144 [Second Circuit])  
Court PASS Docket No. CTQ-2025-00007

New York's Labor Law requires employers to pay no less than the prevailing rate of wages to employees performing certain types of work on public works projects. It also requires that public works contracts include a provision that the employer agrees to pay the prevailing wage. If an employer does not pay the prevailing wage as required by the contract, New York caselaw allows a worker to sue as a "third-party beneficiary" of the contract.

Comfort Systems, a fire alarm and sprinkler company, contracted for public works projects with school districts, community colleges, and a fire department. These contracts did not state that Comfort Systems would pay the prevailing wage, and they contained provisions requiring that any action based on the contract be brought within one year.

Kevin Maddison and David Walton worked for Comfort Systems on these projects and were not paid the prevailing wage. They sued Comfort Systems as third-party beneficiaries of the contracts, alleging that Comfort Systems was required to pay the prevailing wage and failed to do so.

The District Court held that the claims were untimely because they were brought after the one-year contractual limitations period. It also ruled that Maddison and Walton could not recover as third-party beneficiaries because the contracts did not include a promise to pay prevailing wages.

On appeal, the United States Court of Appeals for the Second Circuit first determined that Maddison and Walton were entitled to be paid the prevailing wage on the projects. It then certified two questions to the New York Court of Appeals regarding their ability to sue for the unpaid wages:

1. Is the promise to pay prevailing wages implicit in every public works contract so that individuals employed on public works projects may sue their employers for breach of contract to enforce the prevailing-wage requirement under [New York's Labor Law] even if the employer's written contract does not include the statutorily required promise to pay prevailing wages?
2. Are agreements to shorten the statute of limitations in public works contracts to one year enforceable against workers bringing third-party-beneficiary breach-of-contract claims to enforce the prevailing-wage law?

# 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, May 20, 2026

**Village of Freeport v Freeport Plaza West** (206 AD3d 703 [AD2])  
Court PASS Docket No. APL-2025-00175

In 2017, Freeport Plaza West LLC (FPW) agreed to purchase Village-owned property for development. In 2018, the Village commenced this action alleging FPW breached the contract, and FPW counterclaimed for anticipatory breach.

After extensive discovery and multiple court conferences, and two months before trial, the Village moved to dismiss FPW's counterclaim on the ground that FPW failed to file a Notice of Claim as required by CPLR 9802.

Supreme Court denied the Village's motion. The court noted that CPLR 9802 requires a party to file a verified notice of claim with a village clerk within one year of accrual as a requirement to maintain a contract claim against a village. The court also acknowledged the general rule of strict compliance but explained that dismissal for failure to file a notice of claim may be avoided where "peculiar circumstances" exist. The court found such circumstances here because the Village initiated the action, both the Village's claim and FPW's counterclaim arose from the same contract, the Village actively litigated the counterclaim for an extended period, and the Village raised the notice-of-claim issue only on the eve of trial.

On appeal, the Appellate Division, Second Department, reversed. It held that CPLR 9802 must be strictly applied, including to counterclaims, regardless of the Village's prior knowledge or participation in discovery. The court further held that the fact that the Village "commenced an action based on the same transaction as [FPW's] counterclaim does not excuse [FPW] from complying with CPLR 9802."

# 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, May 20, 2026

**Matter of Miller v State of New York** (247 AD3d 502 [AD1])  
Court PASS Docket No. APL-2026-00033

Article VI, § 25(b) of the New York State Constitution contains a mandatory judicial retirement provision, requiring judges and justices to retire at the end of the year when they turn 70. The section provides for a certification process, where such former judges and justices may be certificated to serve as a justice of supreme court for two-year terms until the age of 76. These constitutional mandates are implemented through Judiciary Law §§ 23 and 115.

In November 2024, New York State voters approved the Equal Rights Amendment (ERA) to the New York State Constitution. The ERA added the category of “age” to the Civil Rights Clause in article I, § 11 of the State Constitution.

Three New York Supreme Court Justices who were subject to the mandatory retirement or certification process commenced this action alleging that the ERA nullified the constitutional mandatory retirement age of 70 for judges and justices when it added “age” to the list of protected categories in article I, section 11 of the State Constitution.

Supreme Court dismissed the proceeding, rejecting the argument that the ERA repealed the mandatory retirement age by implication. The court said, “petitioners have not adequately demonstrated that Section 25(b) was repealed by the ERA simply because it contains an age-based restriction, nor have they demonstrated that there was a legislative intent to repeal Section 25(b) or any judicial retirement provisions with the ERA.”

On appeal, the Appellate Division, First Department, affirmed by declaring that “article VI, § 25 (b) of the State Constitution has not been repealed and that Judiciary Law §§ 23 and 115 are not unconstitutional.” The court held the plain language of the ERA does not support the argument that the mandatory judicial retirement age section has been implicitly repealed, as the “ERA contains no reference to article VI, the eligibility of persons to serve as judges or justices, or the judicial retirement age.”