State of New York Court of Appeals

Case Background Summaries

September 8 through September 11, 2025

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

Briefs and attorney contact information are available through Court-PASS or by contacting the Clerk's Office.

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State of New York
Court of Appeals

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To be argued Monday, September 8, 2025

Onondaga County v State of New York (238 AD3d 1535 [AD4])
Court PASS Docket No. APL-2025-00088

In New York, local elections are scheduled for odd-numbered years. Federal and state-wide elections are on the ballot in even-numbered years. To encourage participation in local elections, which have a lower voter turnout than elections in even-numbered years, the New York State Legislature enacted the Even Year Election Law.

The Even Year Election Law amended parts of the County Law, Town Law, Village Law and Municipal Home Rule Law so that elections for most county, town, and village officials would be held in even-numbered years, not odd-numbered years. The Even Year Election Law does not apply to elections for positions whose terms of office are set in the New York State Constitution, including town justice, sheriff, county clerk, district attorney, family court judge, county court judge, and surrogate court judge. The Even Year Election Law only applies to counties outside of New York City.

In these consolidated actions, plaintiffs claim the Even Year Election Law is unconstitutional because it violates article IX of the New York State Constitution, the provision that grants home rule powers to local governments.

Supreme Court agreed with plaintiffs, observing that the state constitution gives local governments authority to act on local matters and the State Legislature can only intrude in local affairs by enacting a general law, a special law, or when a substantial state interest is directly and substantially involved. The court held that the Even Year Election Law is not a general law, was not properly enacted as a special law, and applies only to a local issue.

The Appellate Division, Third Department, reversed and declared the Even Year Election Law constitutional. It said that article IX, section 1 of the New York State Constitution does not grant local governments the constitutional right to set the terms of offices for their officers and article IX, section 2 authorizes the State Legislature to adopt general laws, or special laws under certain circumstances, relating to the terms of offices for local government officials. The Appellate Division said that the Even Year Election Law fit within the constitutional definition of a general law---a general law "applies alike to all counties, all counties other than those wholly included within a city, all cities, all towns or all villages"---because it applied to all counties outside of New York City. Because it is a general law, the court held the Even Year Election Law did not violate the constitution.

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To be argued Monday, September 8, 2025

SanMiguel v Grimaldi (229 AD3d 152 [AD1])
Court PASS Docket No. APL-2025-00088

On July 1, 2012, plaintiff Veronica SanMiguel, pregnant with her first child, was admitted to St. Barnabas Hospital to induce labor. On July 2, Dr. Grimaldi took over plaintiff's care. By 6:00AM on July 3, plaintiff was fully dilated. At 9:51AM fetal monitoring strips showed fetal bradycardia, a slower than normal heartrate. Dr. Grimaldi unsuccessfully attempted vacuum extraction twice, at 10:12AM and 10:15AM, and performed an emergent Caesarean section delivery at 10:23AM. SanMiguel's child was resuscitated at delivery and transported to the neonatal intensive care unit in serious condition. The child died eight days after his birth.

SanMiguel, on behalf of herself and as administrator of her child's estate, commenced this action against the hospital, Dr. Grimaldi, and others for medical malpractice as to her child and failure to obtain informed consent as to her child and herself. SanMiguel asserted that during labor on July 2 and in the early morning hours and throughout the morning of July 3, she asked for a Caesarean section delivery and told hospital staff that she did not want to deliver by vacuum extraction and did not consent to that procedure. Following the death of her child, SanMiguel received extensive mental health treatment, including an in-patient hospitalization.

Supreme Court granted Dr. Grimaldi judgment on all claims except SanMiguel's claim for emotional harm based on lack of informed consent.

The Appellate Division, in a 4-1 decision, affirmed Supreme Court's judgment as to Dr. Grimaldi. The majority recognized that in *Sheppard-Mobley v King* (4 NY3d 627 [2005]), the Court of Appeals held that a mother could not recover for emotional harm on a claim for medical malpractice where the child was born alive and mother did not suffer any physical injury. The majority said this case was different, and *Sheppard-Mobley* did not prevent SanMiguel's claim, because she sought to recover for emotional harm on her claim for lack of informed consent. The majority said lack of informed consent and medical malpractice are separate theories of recovery that involve different interests. If *Sheppard-Mobley* applied to claims of medical malpractice and lack of informed consent, the majority urged the Court of Appeals to revisit *Sheppard-Mobley*.

The dissenter stated that under *Sheppard-Mobley*, SanMiguel's claim must be dismissed because she did not suffer any physical injury from the lack of informed consent and her emotional damages arose solely from the physical injuries sustained by her child, who was born alive. The dissenter concluded that the child had viable claims of lack of informed consent and medical malpractice against Dr. Grimaldi.

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To be argued Monday, September 8, 2025

People v Jason Wright (215 AD3d 601 [AD1])
Court PASS Docket No. APL-2025-00040

On a bright and sunny day in April 2017 a group of people began to argue near Battery Place in lower Manhattan. The argument drew the attention of a bystander sitting in a car, FF. FF watched the argument for several minutes, including when a person stood about eight feet from the car she was in and fired between two and four shots from a gun, injuring two people.

The police arrested defendant as the shooter and asked FF to view a lineup. While FF was waiting to view the lineup in a reception area, the police led defendant, in handcuffs, into the reception area. At a lineup that included defendant, FF was unable to identify the shooter. FF told the police that the person she saw in the reception area was the shooter.

At trial, Supreme Court conducted an independent source hearing and determined FF had an independent basis for identifying defendant and allowed FF to identify defendant in court. A jury convicted defendant of Assault in the First Degree, Attempted Assault in the First Degree and Criminal Possession of a Weapon in the Second Degree.

At sentencing, the court asked defense counsel if counsel wanted to speak on defendant's status as a predicate violent felon. Defense counsel said no. Defendant spoke up on his own behalf, stating that he wanted to controvert a calculation relating to his incarceration in New Jersey. The court instructed defendant that he could not speak on his own behalf. The court sentenced defendant as a second violent felony offender.

The Appellate Division affirmed. The court said that, notwithstanding the witness's brief, accidental viewing of defendant in custody, she had an independent basis for her in-court identification. The court also held that defendant, "by way of counsel," waived any challenge to the predicate felony statement, notwithstanding that he "personally stated that he wanted to controvert the statement." The court rejected defendant's argument that CPL 400.15 allows a defendant to personally controvert prior periods of incarceration in predicate felony statement.

In response to defendant's constitutional challenge to CPL 400.15 based on *Erlinger v United States* (602 US 821 [2024]), the Attorney General has intervened in the appeal to defend the constitutionality of that statute.

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To be argued Monday, September 8, 2025

Matter of First United Methodist Church v Assessor, Town of Callicoon (230 AD3d 885 [AD3])
Court PASS Docket No. APL-2024-00146

First United Methodist Church is a not-for-profit religious corporation based in Flushing, Queens, where it has a church building and holds services for its congregation. In 2018, the church bought a 70-acre parcel in the Town of Callicoon, Sullivan County.

The Town of Callicoon denied the Church's application for property tax exemption in 2021 and 2022. Because the property is in a "rural district" where operating a church is not allowed, the Town asserted that the Church could not receive a religious exemption from property tax because the Church was using the property in violation of the Town's zoning laws.

At trial, a church trustee testified that the Church bought the property to hold retreats, not church services, and the property would be used to grow food that could be distributed to low-income residents of Flushing.

Supreme Court ruled that the Church was entitled to the property tax exemption, because the Church was not operating a church on the property in violation of the zoning laws. The court also rejected the Town's argument that the Church could not receive a tax exemption for 2022 because it did not file an exemption application for that year.

The Appellate Division affirmed in a 4-1 decision. The majority held that the trial evidence supported the finding that no regular or scheduled services were held on the property.

The dissenter concluded that the Church proved at trial that it was operating a religious retreat center, not a church. However, the dissenter would not have granted the Church a property tax exemption because operating a religious retreat center without a special use permit or permission, as the Church was doing on this property, violated the Town's zoning laws.

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To be argued Tuesday, September 9, 2025

Matter of K.Y.Z. (228 AD3d 560 [AD1])
Court PASS Docket No. APL-2025-00071 ***case materials not available*

Family Court terminated father's parental rights to his child K.Y.Z. on the ground of permanent neglect.

The Appellate Division affirmed, stating that father failed to consistently "maintain contact with or plan for the future of the child for a period of one year after the child entered foster care," as required by Social Services Law. The Appellate Division stated that the agency made "diligent efforts" to encourage and strengthen father's relationship with the child by referring the father to a parenting skills class and therapy, scheduling regulation visitation, providing father with MetroCards to visit the child, helping father with housing, and regularly meeting with him.

Acknowledging that a language barrier existed between father and the agency, the Appellate Division said that the agency adequately addressed this issue by using Mandarin interpreters to communicate with father and referring him to therapy and a parenting skills class that were provided in Mandarin, which father understood. Although the child was placed in foster homes that spoke English and Spanish, there was no foster home available that could handle the child's extensive special needs and where Mandarin or Foochow were spoken. The agency urged the father to attend classes to learn English, but he refused to do so.

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To be argued Tuesday, September 9, 2025

People v James Everson (229 AD3d 1349 [AD4])
Court PASS Docket No. APL-2024-00135
***case materials not available on Court-PASS, contact Clerk's Office*

In the early morning hours of July 13, 2019, a man was shot and killed in a park. A police investigation recovered casings from two types of guns and video footage of a car entering the park at the time of the shooting. The police concluded that three people were in the car at the time of the shooting—James Everson, Amir Bordies and Jimmy Ellerbie—and that Everson and Bordies were the shooters. By grand jury indictment, Everson and Bordies were charged with murder in the second degree and multiple counts of criminal possession of a weapon. The indictment alleged that Everson and Bordies acted in concert to intentionally cause the death of the man shot in the park. Ellerbie cooperated with police, was not charged with any crime and testified for the People at the joint trial of Everson and Bordies.

Before trial, defendant Everson moved to sever his trial from codefendant Bordies' trial, claiming that the People would use a statement by Bordies that was inculpatory to him. The trial court denied the motion.

During summation, Bordies' counsel said that there were two shooters, and Bordies was not one of them. The trial court denied Everson's renewed motion to sever the trials.

The trial court also denied Everson's motion to dismiss, rejecting Everson's arguments that Ellerbie's testimony was not credible, the evidence did not establish that Everson had a gun or fired a gun, and no evidence was presented to establish that Everson intentionally killed the victim. The jury found Everson and Bordies guilty of murder in the second degree and criminal possession of a weapon.

The Appellate Division, in a 4-1 vote, affirmed Everson's conviction. The majority found that the trial court did not abuse its discretion in denying the motion to sever, noting that joint trials are preferred where the same evidence will be used and the defendant and codefendant are charged with acting in concert, and severance is not required solely because of differences in trial strategies or inconsistencies in defenses. The majority also rejected Everson's argument that codefendant's counsel acted as a second prosecutor, reasoning that codefendant's counsel did not elicit any new evidence against Everson that his jury would not otherwise have heard had he been granted a separate trial.

The dissenter disagreed, finding that severance was required because the defenses—that defendant was not a shooter, and that defendant was a shooter—were in "irreconcilable conflict" and that conflict would lead the jury to infer defendant's guilt.

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To be argued Tuesday, September 9, 2025

1995 CAM LLC v West Side Advisors (221 AD3d 420 [AD1])
Court PASS Docket No. APL-2024-00161

1995 CAM LLC owns Suite 800 of 1995 Broadway in New York City. In 2004, CAM LLC leased the premises to West Side Advisors. CAM LLC and West Side modified the lease several times, including in 2016 by extending the lease through February 28, 2023, and increasing the monthly rent for certain years. The 2016 modification included a guaranty by Gary Lieberman, who agreed to pay for West Side's monetary obligations. Lieberman's liability was limited if West Side gave thirty days' notice of its intent to vacate, paid all rent up to the date of vacating, and completely vacated and surrendered the property pursuant to the terms of the lease.

West Side further agreed to pay for a variety of fees as additional rent, including a real estate tax escalation charge, freight elevator charges, water meter usage charges, cleaning services charges, trash removal services, and late fees.

In July 2020, West Side stopped paying rent and additional fees. On October 28, 2020, West Side notified CAM LLC that it would surrender the premises on or before November 30, 2020. West Side vacated the premises by that date and is no longer in business. There is no written agreement of CAM LLC accepting West Side's surrender.

CAM LLC sued West Side and Lieberman, seeking to recover rent before and after West Side vacated the property. As to the claim for rent after West Side vacated the premises, West Side and Lieberman argued the guaranty precluded that claim. CAM LLC asserted that Lieberman was responsible for rent after West LLC vacated the premises because West LLC did not obtain a written acceptance from it surrendering the premises, as required by the lease and the guaranty.

The trial court said CAM LLC was entitled to rent after West Side vacated the property. The Appellate Division affirmed, holding West Side and Lieberman could not rely on the "good guy" guaranty to avoid paying rent after West Side vacated the premises because the lease required a "written acceptance" of the surrender, and West Side did not obtain a written acceptance.

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To be argued Tuesday, September 9, 2025

Matter of Wagner v NYCDOE (222 AD3d 420 [AD1])
Court PASS Docket No. APL-2024-00061

In 2022, Jimmy Wagner submitted a FOIL request to the New York City Department of seeking "all emails between the DOE from April 2021 until August 2022 from the following domain: @scheinmanneutrals.com."

DOE told Wagner that the request "was not reasonably described" and asked him to "provide names and/or titles of senders/receivers (including email addresses, if possible) beyond the domain provided and key terms to be searched." DOE also suggested that Wagner narrow the timeframe.

Wagner administratively appealed and DOE denied the request, stating that it "attempted multiple electronic searches for emails within the specified time frame from @scheinmanneutrals.com to DOE's domain name @nyc.schools.gov" and that search "commenced, persisted, and then timed out the next business day." DOE noted that, in response to an opportunity to clarify or narrow the scope of the search, Wagner asked that the search be performed as requested.

Supreme Court rejected Wagner's challenge to DOE's denial. The court relied on Public Officers Law § 89 (3) (a), which provides, in part, that "when an agency has the ability to retrieve or extract a record or data maintained in a computer storage system with reasonable effort, it shall be required to do so." Applying this provision, the court held that DOE acted reasonably to try and accommodate the request.

The Appellate Division affirmed DOE's denial of the FOIL request on the grounds that it did not seek "a record reasonably described" (Public Officers Law § 89 [3] [a]). The court recounted that Wagner sought all emails during a 17-month period between any DOE email address and any email address from a neutral arbitrator's firm, DOE maintains over 1 million email mailboxes, and DOE searched its database as requested and the searches timed out. The Appellate Division concluded "the descriptions provided are insufficient for purposes of extracting or retrieving the requested document[s] from the virtual files through an electronic word search . . . [by] name or other reasonable technological effort." And the court pointed out that Wagner, when asked twice to provide a narrower timeframe, names or titles of DOE employees who might be custodians of the emails sought, and key terms to be searched, simply refused.

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To be argued Tuesday, September 9, 2025

Matter of NYCLU v OCA (224 AD3d 458 [AD1])
Court PASS Docket No. APL-2024-00143

In 2021, the New York Civil Liberties Union submitted a FOIL request to the Office of Court Administration seeking all documents directed to judges or their chambers staff from January 1, 2011 onward, where federal or state court decisions, statutes, regulations or ordinances are summarized, analyzed, interpreted, construed, explained, clarified, or applied. The Office of Court Administration denied the request and the administrative appeal on the grounds that the request was overbroad, did not reasonably describe the records to permit a search, and any such records were protected as an intra-agency communication and attorney-client work product.

Supreme Court directed the Office of Court Administration to provide the requested records to the NYCLU. The Appellate Division reversed, holding that the request sought information "not stored in any centralized manner, and responding to the FOIL request would involve manually reviewing files and making individual determinations as to each file" and the Office of Court Administration "made a particularized showing that attempting to comply with this broad request would be impracticable." Alternatively, the Appellate Division found that the records were exempt under the attorney-client privilege and the attorney work product privilege, citing CPLR 4503(a)(1), CPLR 3101(c), and Public Officers Law § 87(2)(a).

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To be argued Wednesday, September 10, 2025

IntegrateNYC v State of New York (228 AD3d 152 [AD1])
Court PASS Docket No. APL-2024-00099

The New York City public school system is the largest in the United States, with more than 1,850 schools and over one million students from diverse ethnic and racial backgrounds. IntegrateNYC, Inc., a youth led organization "for racial integration and equity in New York City schools," two parent organizations, and current and former public school students commenced this lawsuit against the State and the City, claiming that defendants violated the Education Article and the Equal Protection clause of the New York State Constitution (article XI, § 1; article 1, §11) and Executive Law § 296 (4) of the New York State Human Rights Law (NYSHRL) by creating a "racialized" admission pipeline, beginning with a single standardized test for the City's Gifted & Talented (G&T) programs. The complaint states that the G&T Test, the Special High School Admissions Test (the SHSAT), and other standardized admission tests are "culturally biased" and not "pedagogically sound" and disadvantage "Black and Latinx students, who face culturally biased test language and tasks." Apart from the segregation of the City's schools caused by the racialized pipeline, the complaint also alleges that New York City public schools lack a "culturally responsive curriculum" and "teacher diversity;" fail to provide "sufficient training, support, and resources to enable administrators, teachers, and students to identify and dismantle racism;" create "hostile and discriminatory" school environments; and use "racially disproportionate discipline."

Supreme Court dismissed the complaint, as nonjusticiable, holding it could not make educational policy by directing actions regarding curriculum content, testing content, employment diversity, employment policies, admission policies, and disciplinary policies. The court stated that the legislature, not the judiciary, is the proper branch of government to hear petitioners' requests.

The Appellate Division, however, held that the complaint was justiciable, as it is "the province of the Judicial branch to define, and safeguard, rights provided by the New York State Constitution" and it is "the responsibility of the courts' to do so, even if the 'the courts might encounter great difficulty in fashioning and then enforcing particularized remedies appropriate to repair unconstitutional action on the part of the Legislature or the executive.'"

As to the alleged constitutional violations, the Appellate Division noted that the Court of Appeals interpreted the Education Article as requiring the State to offer students "a sound basic education," and the complaint alleged such a claim. The equal protection claim, the court observed, presented a "close question," but the complaint sufficiently pleaded an inference of discriminatory intent as to the culturally biased and pedologically unsound standardized admissions tests.

For the statutory claim, the Appellate Division dismissed the claim against the State because the State is not a "public school," and dismissed most of this claim against the City. The court found that the only part of the claim that could be pursued against the City was based on allegations that the City denied Black and Latinx students the use of its facilities by reasons of race through discriminatory admissions testing.

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To be argued Wednesday, September 10, 2025

People ex rel. Kon v Maginley-Liddie (234 AD3d 808 [AD2])
Court PASS Docket No. APL-2025-00070

Diego Guerrea was convicted, upon a jury verdict, of promoting a sexual performance by a child (19 counts) and possessing a sexual performance by a child (49 counts). Defendant was sentenced to a term of incarceration of at least 16 years. On defendant's appeal, a divided Appellate Division reversed the conviction and remitted for a new trial. The majority held that defendant's trial counsel was ineffective. The People applied to one of the dissenting Justices for leave to appeal to the Court of Appeals.

At a bail hearing upon remittal, defense counsel asked that Mr. Guerrea be released on his own recognizance, to supervised release, or to electronic monitoring. The People opposed and argued that he should remain in custody. Supreme Court ordered that Mr. Guerrea be remanded pending a new trial, stating it had considered "all the factors outlined in section 510.30 in the CPL" and found "the least restrictive means of assuring" defendant's return to court is continued remand.

Defense counsel Hannah Kon commenced this habeas corpus proceeding (CPLR article 70) in the Appellate Division against the Commissioner of the New York City Department of Correction, asserting that Supreme Court "disregarded both the purpose of bail and presumption of innocence" when it directed remand for defendant. Counsel argued that Supreme Court's securing order constituted an abuse of discretion, violated CPL 510.10 and, given the Appellate Division's reversal of defendant's conviction, defendant was now a "pretrial detainee" and thus entitled to pretrial liberty "like any other presumptively innocent person." The People countered that Supreme Court did not abuse its discretion given the severity of the charges, the overwhelming evidence of defendant's guilt, and the strong possibility that defendant would flee if not remanded. And, the People argued, the securing order was supported by the factors in CPL 510.10 and rested on a rational basis that was "beyond correction in a habeas proceeding."

The Appellate Division dismissed the writ, holding the determination of Supreme Court did not violate constitutional or statutory standards.

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To be argued Wednesday, September 10, 2025

People ex rel. Barta v Molina (220 AD3d 953 [AD2])
Court PASS Docket No. APL 2024-00060

In July 2023, Shyhied Gibson was arrested, arraigned and remanded to jail in the New York City Department of Correction without bail. Following his indictment by a grand jury, in October 2023, Mr. Gibson moved for his release because the People violated his statutory right to a speedy trial (CPL 30.30[2][a]).

Supreme Court determined Mr. Gibson was entitled to release pursuant to CPL 30.30(2)(a). Defense counsel argued that the court's options were to release Mr. Gibson on his own recognizance or release him on supervised release. The People asked for bail. On October 13, Supreme Court directed that Mr. Gibson be released on electronic monitoring.

On October 16, defense counsel reported to Supreme Court that Mr. Gibson's screening appointment for electronic monitoring was scheduled for October 19 and based on counsel's experience, Mr. Gibson was "likely to remain incarcerated for a couple weeks up to a month" before electronic monitoring was implemented, delaying Mr. Gibson's release. The court stated that Mr. Gibson would not be released until electronic monitoring had been implemented.

Defense counsel Peter A. Barta commenced this habeas corpus proceeding (CPLR article 70) in the Appellate Division against the Commissioner of the New York City of Correction, seeking Mr. Gibson's immediate release and arguing that once a criminal defendant has been ordered released pursuant to CPL 30.30(2)(a), the statute did not authorize electronic monitoring as a condition of release and, even if electronic monitoring could be imposed, there is "no lawful basis to continue a defendant's indefinite detention to await the imposition of such monitoring."

Shortly thereafter, Mr. Gibson was released with electronic monitoring.

The Appellate Division dismissed the writ, holding that the request for immediate release was moot and the exception to the mootness doctrine did not apply. The court also held that defense counsel failed to establish entitlement to any other relief sought.

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To be argued Wednesday, September 10, 2025

People v Dino J. Callara (229 AD3d 1247 [AD4])
Court PASS Docket No. APL 2024-00152 ***case materials not available*

In 2021, Dino J. Callara, a mechanic, was arrested based on allegations that he scrapped a car without the owner's consent. The Orleans County District Attorney recused himself and County Court appointed Anthony M. Bruce as a special district attorney to prosecute the case. Mr. Callara was indicted and charged with two counts of grand larceny in the fourth degree.

A jury convicted Mr. Callara of one count of grand larceny and two counts of petit larceny. On appeal, Mr. Callara argued that appointing Bruce as a special prosecutor was invalid because the law required the special prosecutor to live in Orleans County or an adjoining county and Mr. Bruce did not meet either requirement.

The Appellate Division agreed, reversed the conviction and dismissed the indictment. The court held that County Law § 701(1) allows a court to appoint a special district attorney where the district attorney is disqualified in a particular case, but the law explicitly states that the court only has authority to appoint an attorney at law "having an office in or residing in the county, or any adjoining county, to act as a special district attorney."

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To be argued Wednesday, September 10, 2025

People v Savion Robinson (221 AD3d 435 [AD1])
Court PASS Docket No. APL-2024-00073

Shortly before midnight on December 12, 2020, New York Police Department officers on foot patrol in Times Square saw two men fighting. The officers broke up the fight and placed both men in handcuffs. Officers asked both men "what happened?"

One of men, Mr. Robinson, said that he didn't "have beef with [the other man]. Somebody just grabbed me. . . . You know I just punched [him] right out." The other man said Mr. Robinson stole his bicycle and he was trying to get his bicycle back.

Both men remained handcuffed for approximately 30 minutes while officers reviewed video surveillance of the area. The video showed Mr. Robison approach an unattended bicycle and ride it for a few feet before the other man jumped onto Mr. Robinson, pulling him to the ground. Mr. Robinson stood up and began punching the man.

Mr. Robinson was arrested. Mr. Robinson argued the People could not use his statement at trial because he was in police custody and the officers did not advise him of his *Miranda* rights before asking him "what happened." Supreme Court disagreed because, it said, the question "what happened" was not part of a custodial interrogation, but part of the officer's investigation. At trial, Mr. Robinson's statement and video evidence were admitted into evidence and the owner of the bicycle testified that Mr. Robinson repeatedly punched him in the face. Mr. Robinson was convicted of robbery in third degree.

The Appellate Division affirmed, holding that the testimony and video evidence showed that Mr. Robinson took the bike, attempted to flee with it, and punched and kicked the victim to either retain the bike or overcome the victim's resistance to its taking, as required for a conviction of robbery in the third degree (Penal Law § 160.00[1]). As to Mr. Robinson's statement to police, the court held that the officer's question "what happened" was not a custodial interrogation requiring *Miranda* warnings. Both men were placed into handcuffs immediately after the police stopped the fight "as reasonable precautionary measures that did not elevate the detention to an arrest," the court said (221 AD3d 435). In any event, the court observed, any error in admitting the statement was harmless considering the overwhelming evidence of guilt.

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To be argued Thursday, September 11, 2025

People v Henry Fuentes (81 Misc3d 136[A] [AppTerm])
Court PASS Docket No. APL 2024-00052

In January 2020, Officer Congedo found Mr. Fuentes, who was intoxicated, 19 years old, and holding an open bottle of tequila, stuck in a toddler swing in the backyard of an abandoned building. After Mr. Fuentes extracted himself from the swing, Officer Congedo took the bottle of tequila and drove Mr. Fuentes home. Once there, Mr. Fuentes asked Officer Congedo to return the bottle of tequila. Officer Congedo refused and a struggle ensued. According to Officer Congedo, Mr. Fuentes pushed her, causing her patrol car keys to fall to the ground, Mr. Fuentes grabbed the keys and hopped in the patrol car. Several officers pulled Mr. Fuentes from the patrol car and he was charged with obstruction of governmental administration, petit larceny, harassment in the second degree, and unlawful possession of alcohol.

In May 2021, the People filed their initial Certificate of Compliance (COC) and statement of readiness (SOR), indicating that they completed discovery and were ready for trial. In July 2021, the People provided documents to the defense relating to a federal civil rights lawsuit against Officer Congedo and other police officers. In January 2022, Officer Congedo testified at a pre-trial hearing.

Four days after this pre-trial hearing, the People gave the defense Internal Affairs Bureau (IAB) reports relating to the federal civil rights lawsuit. These reports involved a matter that happened two years before Mr. Fuentes was charged, did not involve Mr. Fuentes, and exonerated Officer Congedo.

Based on the People belatedly disclosing the IAB reports, Mr. Fuentes asked the trial court to find the People's COC invalid and to dismiss the case against him. The People countered that they acted with due diligence to try to obtain the IAB reports and, because the IAB reports exonerated Officer Congedo, the delayed disclosure did not render the COC and SOR invalid.

District Court granted the motion because, it said, the People violated the automatic discovery provisions in CPL 245.20. The court explained that Mr. Fuentes was unable to use any potential information in the IABs when questioning Officer Condego in the pre-trial hearing.

The Appellate Term reversed. That court noted CPL 245.20 required the People to automatically disclose "all items and information that relate to the subject matter of the case and are in [the People's] possession, custody or control," including all evidence and information known to police enforcement agencies that tends to "impeach the credibility of a testifying prosecuting witness." Here, the court said, it is undisputed that the IAB reports are not "related to the subject matter of the case" and, thus the reports were not subject to automatic discovery.

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To be argued Thursday, September 11, 2025

People v Richecarde Licius (82 Misc 3d 18 [AppTerm])
Court PASS Docket No. APL 2024-00047

On May 3, 2022, Mr. Licius was arraigned on an accusatory instrument charging him with various offenses, the highest being a class A misdemeanor. For class A misdemeanors, the speedy trial statute requires the People to be ready for trial within 90 days (CPL 30.30). The People must communicate that they are ready for trial on the record in open court or by a written notice filed with the court and sent to defense counsel.

On August 1, 2022, the last day of the 90-day CPL 30.30 period, the People served defense counsel with a statement of readiness (SOR) for trial. At 5:03PM, the People transmitted the SOR to the Unified Court System's Electronic Document Delivery System (EDDS). The New York City Criminal Court clerk's office reviewed the SOR on August 2, 2022.

Mr. Licius asked the trial court to dismiss the accusatory instrument against him, arguing that the People did not file a statement with the court that they were ready for trial within the 90 day CPL 30.30 period.

City Court granted the motion. It said before EDDS there was no way to file a SOR with the court when the court was not actually open for business and, because it is impossible to commence a trial after court has closed for the day, the People's after-hours filing on August 1 was effective only the next day.

The Appellate Term reversed. That court held the People's readiness for trial and the court's ability to start a trial are separate issues and CPL 30.30 only requires that the People be ready for trial within a certain time. And CPL 30.30 does not provide that the People must announce readiness for trial during business hours; rather, the court said, CPL 30.30 states the People must be ready within 90 "days." Because the CPL does not define a "day," the court relied on the definition of a calendar day in the General Construction Law—the time from "midnight to midnight." Based on this definition, the Appellate Term concluded the speedy trial time is to be calculated by days, not by any specific hour within the day.

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, September 11, 2025

People v Rosemary Hernandez (224 AD3d 415 [AD1])
Court PASS Docket No. APL-2024-00113
***case materials not available on Court-PASS, contact Clerk's Office*

Ms. Hernandez stabbed her boyfriend, killing him. With the People's consent, the trial court determined Ms. Hernandez was a victim of domestic violence and qualified for sentencing under the Domestic Violence Survivors Justice Act (DVSJA, Penal Law § 60.12). Ms. Hernandez pleaded guilty to the class A felony of second-degree murder in exchange for a 10-year determinate sentence followed by 5-years post-release supervision.

The DVSJA allows for a lesser sentence when a court determines that (1) at the time of the offense, defendant was a victim of domestic violence subjected to substantial physical, sexual or psychological abuse inflicted by a member of the same family or household as the defendant; (2) such abuse was a significant contributing factor to defendant's criminal behavior; and (3) having regard for the nature and circumstances of the crime and the history, character and condition of the defendant, the statutory term of imprisonment would be unduly harsh. For class A felonies, the DVSJA specifies that the lesser sentence must be a determinate term of between 5 and 15 years.

Penal Law § 70.45 says when a court imposes a determinate sentence "it shall in each case state not only the term of imprisonment, but also an additional period of post-release supervision as determined by this article." The default term of post-release supervision is 5 years, and lesser terms of post-release supervision may be imposed when the determinate sentence is for a Class B, C, D or E felony, including determinate sentences imposed under the DVSJA for Class B, C, D or E felonies.

On appeal, Ms. Hernandez argued that no period of post-release supervision can be imposed on her determinate sentence for a class A felony, because Penal Law § 70.45 does not address determinate sentences imposed for Class A felonies under the DVSJA. The Appellate Division rejected this argument, holding the imposition of a term of post-release supervision pursuant to Penal Law § 70.45 is not contrary to the legislative intent of the DVSJA to provide for less severe determinate sentences for victims of domestic violence convicted of certain felonies.

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, September 11, 2025

People v Arthur H. Morgan, Jr. (230 AD3d 864 [AD3])
Court PASS Docket No. APL-2024-00124
***case materials not available on Court-PASS, contact Clerk's Office*

Arthur H. Morgan, Jr. and his wife lived together in a trailer home in Columbia County. Mr. Morgan's wife was last seen in March 2008 and reported missing by a family member on April 8, 2008. On April 9, 2008, her body was found wrapped in a blanket under the shared trailer home. Mr. Morgan was charged with murder in the second degree and a jury convicted him as charged. In 2017, the Appellate Division granted Mr. Morgan a new trial because he had been deprived of his right to testify in his own defense.

During jury selection for the second trial, defendant raised a *Batson* challenge after the People peremptorily struck prospective jurors of color. Under *Batson v Kentucky*, the trial court had to follow these steps to decide whether the People could peremptorily challenge the jurors: (1) the defendant must show that the strike was used to discriminate, if that showing is made, (2) the People must give a non-discriminatory reason for the strike, and (3) the court must determine whether the People's reason for the strike was pretextual and whether defendant showed purposeful discrimination. County Court heard the parties' *Batson* arguments and granted the People's peremptory challenges.

The second trial resulted in the jury convicting defendant of manslaughter in the first degree.

The Appellate Division, in a 3-2 split, affirmed. The majority held that County Court proceeded through the three steps of the *Batson* inquiry, heard the parties' arguments, and ultimately set forth on the record its belief that the prosecutor had race-neutral reasons for challenging the prospective jurors.

The dissenting Justices parted ways with the majority on the third step of the *Batson* inquiry, pointing out that County Court did not state that it believed the race-neutral reasons offered by the People. Rather, by stating that it "believed there's a race-neutral reason . . . which would permit a . . . peremptory challenge by the People," the dissenting Justices said County Court only considered whether the People had given a race-neutral reason for the strike and not whether the race-neutral reason was pretextual as required under the third step of *Batson*.