

# State of New York Court of Appeals

## Case Background Summaries

April 14 through April 16, 2026

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

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# 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, April 14, 2026

**Matter of Lawyers for Children v NYS Office of Children & Family Services**  
(240 AD3d 78 [AD3]) Court PASS Docket No. APL-2025-00081

Petitioners, legal organizations contracted to represent children in foster-care proceedings, commenced this proceeding challenging regulations enacted by the New York State Office of Children and Family Services (OCFS) that established a “Host Family Home” program. Under the program, OCFS designates qualified entities as “host family home agencies.” These agencies recruit, vet, train, and supervise volunteer “host families” to provide support to families in need. Parents retain legal custody and execute a designation of “person in parental relation” under General Obligations Law § 5-1551 for the intended duration of care, which they may revoke at any time.

Petitioners said OCFS lacked statutory authority to create the program and that the regulations conflict with the existing statutory scheme. Petitioners characterized the program as a shadow voluntary foster-care system lacking the procedural safeguards mandated by the Legislature. Voluntary foster-care placement under SSL §§ 384-a and 358-a requires parents to transfer both care and custody to an authorized agency. That statutory process carries extensive protections, including judicial approval for placements expected to exceed 30 days, ongoing court oversight, the right to counsel for both parents and children, preventive-services requirements, kinship-placement priorities, sibling-placement rules, and limits on out-of-state placements.

OCFS countered that petitioners lacked standing to challenge the regulations. Supreme Court agreed and dismissed the proceeding. On appeal, the Appellate Division reversed, holding that petitioners sufficiently alleged standing by claiming injury from “interference with their organizational missions and contractual obligations to represent children in voluntary placement proceedings.”

On remand, Supreme Court upheld the regulations, concluding that OCFS acted within its statutory authority and did not improperly legislate under the *Boreali v Axelrod* (71 NY2d 1) framework.

On appeal, the Appellate Division, in a 3-2 decision, affirmed. The majority held that the program provides preventive, temporary care rather than foster care; that parents’ longstanding right to place out children supports the regulatory scheme; and that OCFS acted within its rulemaking authority. The dissent opined that the regulations created an unlawful, parallel system of voluntary foster care and stripped children of statutory protections.

# State of New York Court of Appeals

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To be argued Tuesday, April 14, 2026

**Matter of Abdoch v Abdoch** (235 AD3d 1251 [AD4])  
Court PASS Docket No. APL-2025-00174

This appeal concerns whether children, through their appointed Attorney for the Children (AFC), may seek appellate review of a Family Court custody determination when neither parent has filed an appeal. In March 2024, Family Court modified the parents' existing custody arrangement, changing the children's primary residency for school-enrollment purposes and reducing the children's time with one parent. The AFC appealed Family Court's order. Neither parent perfected an appeal.

The Appellate Division, Fourth Department, unanimously dismissed the appeal. The court said there was no basis in the record to depart from its prior decisions holding that children in a custody matter do not have "full party status." "Here, neither parent has perfected an appeal from the subject order, and we conclude on the record before us that entertaining the appeal would force the aggrieved yet nonappellant parents to litigate a petition they have since abandoned," the court said. The court concluded that under "the circumstances of this case, we decline to permit the AFC to chart the course of the litigation."

The AFC argues children are "aggrieved parties" because custody decisions directly affect their constitutional rights to family integrity and their statutory rights under the Family Court Act. The AFC asserts that denying children appellate review based on parental inaction undermines the legislative purpose of appointing counsel for children and leaves their rights dependent on adult decision-making beyond their control.

Mother similarly argues that children should be entitled to appellate review when a custody order materially affects them, particularly when a parent's failure to appeal reflects practical barriers—such as indigency, lack of legal knowledge, or lack of counsel—rather than genuine abandonment.

# State of New York Court of Appeals

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To be argued on Tuesday, April 14, 2026

**Mann v Mezuyon LLC** (225 AD3d 569 [AD1])  
Court PASS Docket No. APL-2024-00145

In August 2016, at a construction site in Manhattan owned by Mezuyon LLC, Mayrich Construction was performing excavation work that required drilling into bedrock and blasting. Several drilling rigs drilled holes for explosives, the charges were detonated, and excavators moved blast mats and removed blasted material. At the time of the accident, six drilling machines and three excavators were operating simultaneously. William Mann, a Mayrich driller, was operating one of the drilling rigs.

Mr. Mann's drilling machine malfunctioned, and he called for a mechanic. The mechanic began inspecting the machine and the rear of a nearby excavator swung within a few feet of Mr. Mann's drilling rig. The mechanic suggested relocating to a safer spot, and Mr. Mann moved the drilling rig approximately 20 to 30 feet away. While Mr. Mann was lowering the drill head at the mechanic's request, the back corner of an excavator rotated into him, striking him and knocking him to the ground.

Mr. Mann asserted a Labor Law § 241 (6) claim against the owner, Mezuyon. Section 241 (6) imposes a nondelegable duty on owners and contractors to comply with specific safety rules contained in the Industrial Code. To support liability under section 241(6), the Industrial Code provision alleged to have been violated must impose concrete, specific requirements; a provision that merely restates a general safety standard cannot support a section 241(6) claim.

Mr. Mann's section 241 (6) claim was based on an alleged violation of Industrial Code § 23-4.2 (k), which states that "[p]ersons shall not be suffered or permitted to work in any area where they may be struck or endangered by any excavation equipment."

Supreme Court dismissed Mr. Mann's section 241 (6) claim, holding that section 23-4.2 (k) is too general to constitute a specific, enforceable standard under the statute. The Appellate Division, First Department, affirmed, concluding that section § 23-4.2 (k) is insufficiently specific to support a section 241 (6) claim.

# State of New York Court of Appeals

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To be argued Tuesday, April 14, 2026

**People v Johnathon T. Flesch** (236 AD3d 1469[AD4])  
Court PASS Docket No. APL-2025-00134

Johnathon T. Flesch faced two Seneca County indictments for assaults occurring in July and August 2023. In December 2023, he pleaded guilty to one count of assault in the second degree in satisfaction of both indictments. Under the negotiated plea agreement, the District Attorney promised to recommend a straight probation sentence with screening for participation in the Monroe County Mental Health Court. County Court indicated it would follow that recommendation.

At the scheduled sentencing date, the newly elected District Attorney asked County Court not to impose the negotiated probation sentence, asserting that the disposition was inappropriate, mental health court participation was uncertain, and questions existed regarding supervision outside Seneca County. Mr. Flesch objected, citing extensive plea negotiations and Mr. Flesch's compliance with all pre-sentencing requirements. County Court remanded Mr. Flesch.

County Court thereafter disqualified the District Attorney due to a conflict of interest and informed the Special Prosecutor and Mr. Flesch that straight probation was an illegal sentence for assault in the second degree. The court advised Mr. Flesch that he could withdraw his plea. Mr. Flesch declined, and County Court imposed a determinate four-year prison term plus three years of post-release supervision.

On appeal, Mr. Flesch argued that the prosecution violated a term of the plea agreement and tainted the sentencing proceeding by renegeing on its sentencing promise. He contended that he was entitled to resentencing before a different judge. The People countered that the original agreement was a nullity because the promised sentence was illegal under Penal Law § 60.05(5). They argued that County Court properly permitted Mr. Flesch to withdraw his plea, that he knowingly declined the option, and that the sentence imposed was within his lawful sentencing exposure.

The Appellate Division affirmed, holding that the record did not show that the People violated a term of the plea agreement and that County Court itself determined the negotiated sentence was inappropriate. The court concluded that County Court acted appropriately by giving Mr. Flesch an opportunity to withdraw the plea.

# 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, April 14, 2026

**111 West 57th v 111 W57 Mezz** (220 AD3d 435[AD1])  
Court PASS Docket No. APL-2025-00045

The dispute is one of several arising from a major Manhattan real-estate development at 111 West 57th Street. Plaintiff 111 West 57th Investment LLC, an investor in the project, contends that its more than \$65 million equity stake was wrongfully extinguished through what it characterized as a “sham strict foreclosure” orchestrated by the project’s developers, lenders, and affiliated investors.

Plaintiff claims certain defendants breached the implied covenant of good faith and fair dealing in the parties’ pledge and loan agreement. Plaintiff says defendants did so by assigning a mezzanine loan to a new investor as part of a coordinated plan to divest plaintiff of its equity. The governing agreements provided that the lenders could sell, transfer, or assign their interests in the loan and could do so in their sole discretion.

Supreme Court rejected plaintiff’s implied-covenant claim and the Appellate Division, First Department, affirmed. The court reiterated that the implied covenant of good faith and fair dealing ensures that neither party acts in a way that would destroy or injure the other’s right to receive the “fruits of the contract.” But the covenant may not be used to impose obligations that are inconsistent with the contract’s express terms and, the court continued, where, as here, a contract authorizes a party to exercise a contractual right in its sole discretion and for any reason whatsoever, the implied covenant cannot be invoked to negate that provision. The court concluded that because the agreement granted the lenders broad discretion to assign the loan, no implied-covenant claim could lie against 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, April 15, 2026

**In the Matter of Anderson v Hein** (230 AD3d 880 [AD3])  
Court PASS Docket No. APL-2025-00099

In New York, eligible low-income adults without dependent children may receive state-funded cash benefits through Safety Net Assistance (SNA). With limited exceptions, individuals who receive SNA must engage in work activities as a condition of eligibility. In some circumstances, SNA recipients may be assigned to participate in work experience programs (WEP). Although WEP participants are not paid wages for the hours they work, the maximum number of hours they may be required to work is calculated by dividing their SNA benefit amount by the applicable minimum wage, ensuring compliance with the minimum wage requirement in the federal Fair Labor Standards Act.

Federal law also establishes the Supplemental Security Income (SSI) program, administered by the Social Security Administration (SSA), which provides federally funded cash benefits to low-income individuals who are aged, blind, or disabled. If a New York SNA recipient reasonably appears eligible for SSI, they must apply for those benefits. If a SNA recipient is awarded SSI, they are no longer eligible for SNA.

Petitioners received SNA while their SSI applications were pending and, as a condition of receiving SNA, worked in WEP placements. Their work hours were set by dividing the amount of SNA they received by the minimum wage.

Eventually, the SSA granted their applications for SSI benefits, including an initial lump-sum award with retroactive payments. Pursuant to New York's agreement with the SSA, the State recouped the amount of SNA benefits it paid to petitioners from their initial lump-sum retroactive payment of SSI. The State did not credit them for the minimum-wage value of their WEP labor.

Petitioners commenced this proceeding challenging that practice, arguing that it unlawfully deprived them of earned minimum wages by effectively requiring them to "pay back" the value of their labor.

Supreme Court agreed with petitioners, saying the State must credit the minimum-wage value of their WEP hours when recouping SNA from their retroactive SSI awards. On appeal, the Appellate Division, Third Department, reversed, holding that the State's practice does not violate the Fair Labor Standards Act and that the State may recover the full amount of SNA without applying any WEP wage credit. The court reasoned that SNA is "inherently related to SSI benefits" because both forms of assistance cover the same basic needs for the same period. Because interim assistance and SSI address the same needs for the same months, the Appellate Division concluded, reimbursing the State merely prevents double-payment and does not reduce the value of the SNA the recipient received while performing WEP.

# 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, April 15, 2026

**People v Jamien Harris** (239 AD3d 1279 [AD4])  
Court PASS Docket No. APL-2025-00144

On November 21, 2021, Buffalo Police responded to a home and encountered Jamien Harris in distress. Officers spoke to Ms. Harris inside the home, observed a gun at her feet, and discovered her grandmother was dead on the couch from a gunshot wound. Officers recovered two guns from the home and Ms. Harris made statements acknowledging she played with the guns and suggesting she may have accidentally fired a shot that struck her grandmother. Witnesses stated they heard gunshots the evening before, on November 20.

Ms. Harris was initially indicted only for two counts of simple criminal possession of a firearm, pleaded guilty, and was sentenced to five years' probation. Several months later, after DNA analysis linked her to the gun that fired the fatal shot, Ms. Harris was indicted for second degree murder.

Ms. Harris moved to dismiss the murder indictment, arguing that separate prosecutions violated CPL 40.40's mandatory joinder provision because her possession of the firearms and the homicide were part of the same criminal transaction, and the People possessed legally sufficient evidence to charge murder before she entered her plea to the possession counts.

The People opposed dismissal, asserting that the simple possession on November 21 was a separate criminal incident from the homicide the previous day and that the DNA and ballistic evidence necessary to support a homicide charge was not yet available at the time of the gun-possession plea.

County Court agreed with Ms. Harris and dismissed the murder indictment.

On the People's appeal, the Appellate Division, Fourth Department, reversed, holding that the two offenses did not arise from the same criminal transaction. The majority reasoned that the possession charge was based on police observations on November 21, whereas the homicide allegedly occurred on November 20, and the events were therefore not "so closely related in point of time and circumstance" as to constitute a single criminal incident. Justice Lindley dissented, concluding the events occurred in the same place and within a single, unbroken timeframe and thus formed one criminal transaction.

# 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, April 15, 2026

**People v Jarelle Brazeal** (235 AD3d 890 [AD2])  
Court PASS Docket No. APL-2025-00111

**People v Miguelina Lora** (236 AD3d 820 [AD2])  
Court PASS Docket No. APL-2025-00145

In 2021, Jarelle Brazeal stabbed his husband with a kitchen knife. In 2022, he pleaded guilty to attempted assault in the second degree and was sentenced to five years' probation.

In 2019, Miguelina Lora drove a car with a blood alcohol content more than three times the legal limit. In 2022, she pleaded guilty to aggravated DWI and was sentenced to five years' probation.

In both cases, the sentencing court included "Condition 28" as part of the sentence of probation. Condition 28 is a "consent to search" provision authorizing a probation officer to search the probationer's vehicle and home and to seize any illegal drugs, drug paraphernalia, firearms or other weapons, or other contraband.

In separate appeals, Mr. Brazeal and Ms. Lora challenged the inclusion of Condition 28 as part of their probation sentences.

The Appellate Division, Second Department, rejected both challenges. That court relied on Penal Law § 65.10(1) and held that sentencing courts may require a defendant to consent to searches by a probation officer for weapons or other contraband, so long as the condition is reasonably related to the defendant's rehabilitation or necessary to ensure that the defendant will lead a law-abiding life. The court noted that the sentencing judge must ensure such a condition is individually tailored to the offense and the defendant's particular circumstances, including their background.

As to Mr. Brazeal, the court held that Condition 28 was reasonably related to ensuring that he led a law-abiding life, given that he used a weapon during the underlying offense and had a history of violence.

As to Ms. Lora, the court held that Condition 28 was individually tailored to her offense and therefore reasonably related to her rehabilitation or necessary to ensure that she led a law-abiding life.

# 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, April 15, 2026

**People v Joseph A. Meyers** (236 AD3d 1499 [AD4])  
Court PASS Docket No. APL-2025-00109

In 2017, Joseph A. Meyers was convicted by a jury of first-degree murder, second-degree murder, arson, falsifying business records, attempted insurance fraud, and conspiracy in connection with a fire that killed David O'Dell in Steuben County. He was sentenced to 23 years to life.

Following the conviction, the court stenographer failed to produce transcripts of key portions of the trial, leaving jury selection, opening statements, summations, jury instructions, jury notes, and the verdict missing or unintelligible.

On appeal, the Appellate Division, Fourth Department, held that the missing and defective transcripts precluded meaningful appellate review, characterizing the state of the record as "deplorable." The court declined Mr. Meyers' request for summary reversal and instead remitted the matter to Steuben County Court for a reconstruction hearing.

Over several days in 2022, the retired trial judge, prosecutors, former defense attorneys, and court staff testified from their notes and recollection. The court admitted the retired trial judge's contemporaneous trial notes as well as the prosecutor's handwritten notes on the jury instructions.

After the reconstruction hearing, the Appellate Division, with the Presiding Justice dissenting, affirmed the conviction. The majority concluded that Mr. Meyers failed to show that the reconstructed record was inadequate to protect his right to appeal and determined that the combined original and reconstructed materials provided a sufficient record for review. The Presiding Justice disagreed, concluding that the record remained insufficient and that this was one of the rare circumstances in which a new trial was required.

# 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.

# 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

**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.

# 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

**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.

# 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

**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.