

State of New York Court of Appeals

Case Background Summaries

February 10 through February 12, 2026

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.

[NYS Court-PASS Home Page](#)

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, February 10, 2026

Matter of Claim of Gonzalez (232 AD3d 1011 [AD3])
Court PASS Docket No. APL-2025-00056

Wilfredo Gonzalez sustained a work-related back injury and was awarded temporary disability benefits. His attorney was awarded counsel fees. In March 2023, his attorney sought a penalty against the carrier because the carrier failed to timely pay Mr. Gonzalez's award. A Workers' Compensation Law Judge assessed late payment and installment penalties pursuant to Workers' Compensation Law § 25 (3) (f) and 25 (1) (e). The Workers' Compensation Law Judge denied the attorney's request for additional fees based on the penalties. The Workers' Compensation Board upheld the denial of the additional counsel fees.

On appeal, claimant's attorney and the Board disputed whether WCL § 24 permits counsel fees based on penalty awards. Before 2023, WCL § 24 gave the Board broad discretion to award counsel fees, including fees based on penalties. Amendments effective January 1, 2023, replaced that discretion with a fixed schedule covering a continuation or increase of weekly benefits, schedule loss of use or permanent facial disfigurement, permanent disability, death benefits, and settlements under WCL § 32. As amended, the statute does not include a catch-all provision.

Claimant's attorney argued penalties qualify as "compensation" under WCL § 2(6) and increase prior awards, fitting within WCL § 24(2)(b). Legislative history and precedent, it claimed, support fee awards from penalties. The Board countered that WCL § 24(2) limits fees to listed categories and excludes penalties.

The Appellate Division affirmed, reasoning that if the Legislature intended to allow fees from penalties, it would have expressly included them in the statutory schedule.

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, February 10, 2026

People v Bender (Donald) (236 AD3d 1184 [AD3d])
Court PASS Docket No. APL-2025-00087

On June 27, 2018, Donald Bender was driving an SUV and weaving between lanes of traffic on a four-lane road in the Town of Colonie, Albany County. In short succession, he turned sharply out of his lane, hitting a car being towed by a tow truck; rear-ended a minivan; and struck another car twice, forcing it onto the curb, where it crashed into a fire hydrant and flipped over. Mr. Bender then drove into a motel parking lot, through trees, and ultimately crashed into a house.

Mr. Bender was indicted for reckless endangerment in the first degree. Before trial, County Court ruled that he could not present psychiatric evidence because he failed to timely file the required CPL 250.10(2) notice. Although the court could have excused the late filing, it found no good cause to do so. A jury convicted Mr. Bender of reckless endangerment.

On appeal, Mr. Bender argued that the evidence was legally insufficient to prove the mental state of “depraved indifference to human life,” asserting that while his conduct was reckless, it did not rise to that level. He also challenged the preclusion of psychiatric evidence.

A majority of the Appellate Division, Third Department, affirmed the conviction. The court explained that a person is guilty of first-degree reckless endangerment when, under circumstances evincing depraved indifference, they recklessly create a grave risk of death. Citing *People v Suarez* (6 NY3d 202), the court described depraved indifference as an utter disregard for human life—conduct so wanton and morally deficient as to render the actor as culpable as one intending to kill. The majority concluded the evidence was sufficient, likening Mr. Bender’s actions to driving along a crowded sidewalk, a “quintessential” example of depraved indifference. It also held that County Court did not abuse its discretion in precluding psychiatric evidence.

Two dissenting justices disagreed, finding this case did not present one of the rare circumstances where depraved indifference is established by risky behavior alone and noting the lack of evidence of Mr. Bender’s state of mind.

State of New York Court of Appeals

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

To be argued on Tuesday, February 10, 2026

Granath v Monroe County (237 AD3d 1594 [AD4])
Court PASS Docket No. APL-2025-00098

Gary and Lorraine Granath sued Monroe County and a Monroe County Deputy Sheriff after a November 24, 2019 collision at the intersection of Ayrault Road and Turk Hill Road in the Town of Perinton. The Granaths were traveling southbound on a green light when the Deputy Sheriff, responding to an emergency call, entered the intersection against a red light and struck their vehicle.

The trial court granted judgment to the County and Deputy Sheriff. Drivers of authorized emergency vehicles may disregard certain traffic laws during emergency operations but are liable if they act with “reckless disregard for the safety of others.” Under New York Vehicle and Traffic Law § 1104, the driver of an emergency vehicle who is engaged in an emergency operation may proceed through a steady red light but only after slowing down as may be necessary for safe operation. The court held the Deputy Sheriff’s actions here did not meet the “reckless disregard” standard because she did not act with a “conscious disregard for others.”

The Appellate Division, Fourth Department, with two Justices dissenting, affirmed. The majority held that the Deputy Sheriff’s actions—stopping at the intersection, looking in all directions, activating emergency lights, and proceeding slowly—did not satisfy the reckless disregard standard. The dissent said factual disputes regarding visibility, timing of emergency light activation, and compliance with departmental policy required a trial.

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, February 10, 2026

People v Luke J. Gaffney (232 AD3d 1228 [AD4])
Court PASS Docket No. APL-2025-00077

Luke Gaffney stabbed a Cayuga County Deputy Sheriff in the leg, near the femoral artery, during an encounter at Mr. Gaffney's home. Mr. Gaffney was arrested and charged with attempted murder in the second degree and aggravated assault upon a police officer. County Court instructed the jury on the elements of both offenses and submitted the lesser-included offense of attempted assault in the second degree.

The jury acquitted Mr. Gaffney of attempted murder and attempted assault in the second degree but convicted him of aggravated assault upon a police officer.

On appeal, Mr. Gaffney argued that the verdict was repugnant because the acquittal on the lesser assault offense of attempted assault in the second degree precluded conviction on the greater assault offense of aggravated assault upon a police officer. Both crimes share the same elements—intent to cause serious physical injury and causing such injury—with aggravated assault adding the element that the victim is a police officer. Mr. Gaffney also claimed his trial counsel was ineffective for failing to object to the verdict before the jury was discharged.

The Appellate Division, Fourth Department, held that the repugnancy claim was unpreserved because counsel did not object at trial. It further rejected the ineffective assistance claim, reasoning that counsel may have made a strategic choice: objecting would have required resubmission of all counts to the jury.

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, February 11, 2026

People v Kenneth Tyson (234 AD3d 1282 [AD4])
Court PASS Docket No. APL-2025-00075

In December 2021, Kenneth Tyson, an inmate at a correctional facility, was arrested after throwing a liquid later confirmed to contain urine at a correction officer who entered Mr. Tyson's cell to check on his welfare. In February 2023, Mr. Tyson was indicted for aggravated harassment of an employee by an incarcerated individual (Penal Law § 240.32), a class E felony. Mr. Tyson moved to dismiss the indictment, arguing that his due process rights were violated by an unreasonable pre-indictment delay.

County Court granted the motion, and the People appealed. The Appellate Division, Fourth Department, in a 3–2 decision, affirmed. Applying the factors set forth in *People v Taranovich* (37 NY2d 442), the majority held that the 14-month delay between arrest and indictment was unreasonable. The court emphasized that the case was not complex, the Department of Corrections and Community Supervision (DOCCS) possessed the necessary evidence and witnesses early on, and Mr. Tyson spent seven months in solitary confinement.

The dissenting justices concluded that Mr. Tyson was not deprived of due process. They reasoned that a 14-month delay has repeatedly been upheld as constitutionally permissible; the case involved a serious charge requiring scientific testing; the People did not learn of the incident until August 2022, when the State Police forwarded paperwork to the People; and DOCCS is not a law enforcement agency, so the prosecution cannot be deemed to have constructive possession of its records.

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, February 11, 2026

People v Joseph C. Jones (236 AD3d 1410 [AD4])
Court PASS Docket No. APL-2025-000086

In December 2017, an apprehension team was assigned to locate and arrest a parole absconder pursuant to a validly-issued arrest warrant. The team learned the absconder might be near an intersection in Rochester. When the team arrived at the intersection, they saw an individual, wearing a ski mask that covered his face, who matched the reported height and weight of the absconder. As the team pulled their unmarked car next to the individual, he ran away, tossing a gun as he attempted to climb a fence. The team arrested the individual, recovered the tossed gun, and, upon searching him, located drugs.

The individual was not the absconder, but Joseph Jones. Mr. Jones moved to suppress the evidence, claiming the pursuit violated his constitutional rights. The trial court denied suppression, and Mr. Jones pleaded guilty to attempted criminal possession of a weapon in the second degree.

The Appellate Division, Fourth Department, affirmed in a 3-2 decision. The majority observed that under *People v DeBour* (40 NY2d 210), the police may not generally initiate a pursuit of an individual without a reasonable suspicion that a crime has been, is being or is about to be committed. However, where the pursuit of an individual is based upon an arresting officer's mistaken belief that the individual was someone else for whom a valid arrest warrant had been issued, the arrest is valid if the arresting officer reasonably believed the person arrested was the person sought. Here, the majority said, the arresting officer reasonably believed Mr. Jones was the absconder because Mr. Jones matched the absconder's reported height and weight, covered his face with a ski mask, was in the location where the absconder was reported to be, and immediately fled upon being approached.

The dissenting Justices disagreed, saying the People only demonstrated that Mr. Jones matched the generic height and weight of the average male in the general population. The dissenting Justices pointed to officers' testimony that it was not unusual for someone to be wearing a ski mask on a cold December morning in Rochester and observed that the officers could not see Mr. Jones's face or discern his race. The dissent concluded that denying suppression here was tantamount to holding that the officers had a reasonable belief sufficient to stop and arrest any average-sized man, of any race, in the general area where the absconder may have been.

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, February 11, 2026

People v Lashawn Miller-Henderson (234 AD3d 1245 [AD4])
Court PASS Docket No. APL-2025-00062

Mr. Lashawn Miller-Henderson was charged with two counts of criminal possession of a controlled substance in the third degree (Penal Law §220.16[1]) and four counts of criminally using drug paraphernalia in the second degree (§220.50[2], [3]). These charges arose from an October 2019 search of a Rochester apartment where police found Mr. Miller-Henderson along with crack cocaine, scales, and packaging materials.

Applying *People v Molineux* (168 NY 264 [1901]), the trial court granted the People's request to admit evidence of Mr. Miller-Henderson's 2017 conviction for attempted criminal possession of a controlled substance in the third degree and the circumstances of that crime. Before and after the testimony on the prior conviction, and again during the jury charge, the court instructed jurors that the evidence could not be considered for the purpose of proving that the defendant had a propensity or predisposition to commit the crimes charged in this case and that it was being offered as evidence on the question of knowing possession and intent.

The jury convicted Mr. Miller-Henderson, and he appealed. The Appellate Division, Fourth Department, in a 3–2 decision, affirmed. The majority and dissent agreed that evidence offered solely to show criminal disposition must be excluded. Under *Molineux*, courts must first determine whether the evidence is offered for a non-propensity purpose—such as motive, intent, absence of mistake, common scheme or plan, identity, or completing the narrative of events. If so, the court then weighs the probative value against the potential for unfair prejudice, which can be mitigated by limiting instructions.

The majority held that the 2017 conviction was admissible because it was relevant to knowing possession and intent to sell, and the trial court did not abuse its discretion in finding that its probative value outweighed any prejudicial effect. The majority emphasized that the limiting instructions “mitigated any prejudice,” stating that “any claim of prejudice necessarily relies on the assumption that the jury ignored the court's limiting instructions, and the law does not permit such an assumption.”

The dissent countered that the 2017 conviction amounted to propensity evidence, was not relevant because it involved different circumstances and occurred two years earlier, and that its prejudicial effect outweighed any probative value. The dissent noted that if the 2017 conviction was “marginally relevant” to intent, it was unnecessary because intent was easily inferred from the paraphernalia and packaging found in the apartment.

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, February 11, 2026

People v Eugene Curry (233 AD3d 1487 [AD4])
Court PASS Docket No. APL-2025-00076

Eugene Curry pleaded guilty in April 2016 to attempted criminal possession of a weapon in the second degree and, in July 2016, he was sentenced to five years' probation. In January 2018, Mr. Curry was charged with violating his probation. In December 2018, Mr. Curry entered treatment court after pleading guilty to violating probation and agreeing that successful completion of the treatment court program would restore him to probation; failure would result in his probation being revoked and a term of incarceration. The court did not issue a declaration of delinquency pursuant to CPL 410.30.

Based on Mr. Curry's noncompliance with the treatment court program, in December 2021, five months after the original term of probation expired, the court revoked Mr. Curry's probation and sentenced him to two years' imprisonment and three years' postrelease supervision.

On appeal, Mr. Curry argued that, without a CPL 410.30 declaration, County Court did not have jurisdiction to revoke his probation and resentence him after his probation term expired.

The Appellate Division, Fourth Department, affirmed. The court explained that the filing of a CPL 410.30 declaration tolls the period of probation and extends the sentence originally imposed. Observing that no declaration of delinquency was imposed, the court continued, "[n]onetheless, [Mr. Curry] pleaded guilty to violating probation prior to the expiration of his sentence of probation," and, thus, County Court had jurisdiction to sentence him after revoking his probation.

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, February 12, 2026

People v Jarvis Lewis (228 AD3d 1226 [AD4])
Court PASS Docket No. APL-2025-00026

On the day jury selection was scheduled for Jarvis Lewis's criminal trial, Mr. Lewis asked the court to replace his retained counsel with new assigned counsel. The court denied the substitution request and told Mr. Lewis his retained counsel would continue to represent him. Mr. Lewis refused to proceed, was taken to a holding cell, and refused to return to the courtroom. Counsel conferred with Mr. Lewis and reported to the court that Mr. Lewis did not want counsel to represent him and objected to the trial proceeding. At the court's direction, counsel informed Mr. Lewis that the court anticipated moving forward with the trial, in defendant's absence and with counsel representing him. Mr. Lewis directed defense counsel not to participate in the proceedings and to leave.

Mr. Lewis was brought to the courtroom, where the court advised him that he had a right to be present for trial and to present a defense. Mr. Lewis objected to the entire proceeding, said he had fired counsel, refused to answer the court's questions and again asked for substitute counsel. The court informed Mr. Lewis that he would not be assigned a different attorney but could proceed pro se. Mr. Lewis left the courtroom. The trial was held in Mr. Lewis's absence. Counsel did not participate except to move for dismissal outside of the presence of the jury.

Mr. Lewis was convicted and appealed, arguing he was denied the effective assistance of counsel.

In a 3–2 decision, the Appellate Division, Fourth Department, affirmed. Both the majority and dissent agreed that the trial court properly denied Mr. Lewis's last-minute request for new counsel. The majority, relying on *People v Henriquez* (3 NY3d 210 [2004]), held Mr. Lewis waived his right to the effective assistance of counsel by explicitly instructing his retained attorney not to participate in the trial and refusing to represent himself. The majority noted Mr. Lewis acted knowingly and voluntarily, and that the trial judge repeatedly warned him of his rights and allowed him opportunities to change his mind.

The dissent acknowledged that a defendant's willful absence hampers counsel's ability to provide adequate representation but concluded that, under these circumstances, counsel's nonparticipation amounted to ineffective assistance. The dissent noted that counsel's silence was not a strategic choice but stemmed from a misunderstanding of his ethical obligations after Mr. Lewis attempted to discharge him.

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, February 12, 2026

People v Ricky Billups (233 AD3d 492 [AD1])
Court PASS Docket No. APL-2025-00108

On December 11, 2011, Ricky Billups and others planned to rob a marijuana dealer. The next day, Mr. Billups obtained a loaded gun, carried it through public streets for about 15 blocks, and stored it under a bed in an apartment. Later that evening, during the attempted robbery, the dealer's brother intervened and was fatally shot.

Mr. Billups was convicted of felony murder (Penal Law §125.25[3]), first- and second-degree robbery (§§160.15, 160.10), and second-degree criminal possession of a weapon (§265.03[3]). He received an aggregate sentence of 40 years to life, including a 15-year consecutive term for the weapon-possession count.

On appeal, Mr. Billups argued that the 15-year consecutive sentence for “simple” possession of a loaded firearm was unlawful under Penal Law §70.25(2) and *People v Brown* (21 NY3d 739). He contended that consecutive sentences for simple possession are permissible only if the defendant completed the possessory act before forming intent to use the gun in another crime. Because he obtained the gun after planning the robbery, he claimed his sentence violated *Brown's* rule that possession must precede intent to use.

The People countered that consecutive sentences were lawful because Mr. Billups completed the crime of simple possession well before committing robbery and murder. His possession lasted over an hour, across multiple locations, posing distinct public safety risks. They argued that *Brown* does not require possession to precede any generalized intent; it only requires that the crimes be “separate and distinct.” The People further asserted that, even under Mr. Billups's interpretation, his possession preceded the specific intent to kill an unanticipated victim.

The Appellate Division, First Department, affirmed, holding that the trial court lawfully imposed a consecutive sentence for the simple possession conviction.

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, February 12, 2026

People v Jhajuan Saab (238 AD3d 1212 [AD3])
Court PASS Docket No. APL-2025-00125

A drive-by shooting in Albany injured multiple people gathered on a street corner; one victim later died from his injuries. Jhajuan Saab and another individual fired at the group from the backseat of a car. Mr. Saab was charged with two counts of murder in the second degree, four counts of attempted assault in the first degree, and one count of criminal possession of a weapon. In satisfaction of the indictment, Mr. Saab admitted to shooting two victims, including the victim who died, and pleaded guilty to one count of manslaughter in the first degree and one count of attempted assault in the first degree.

Supreme Court sentenced Mr. Saab to 25 years for manslaughter and 10 years for attempted assault, to run consecutively, for an aggregate of 35 years, plus post-release supervision. On appeal, Mr. Saab argued Supreme Court's imposition of consecutive sentences was illegal because there was no record evidence to suggest that the victims were wounded by separate and distinct acts.

In a 3-2 decision, the Appellate Division, Third Department, modified the judgment, ruling the sentences must run concurrently. The majority looked to Penal Law § 70.25(2) and the requirement that concurrent sentences are required when offenses arise from a single act or when one act constitutes a material element of another. Consecutive sentences are permissible only if the People prove the crimes were based on separate and distinct acts. Here, the majority said consecutive sentences were unlawful because the record—limited to the indictment and plea allocation—does not show separate bullets caused the injuries.

The dissent disagreed, saying that the record supported consecutive sentencing because the shooting involved multiple victims, multiple shots, and different calibers of ammunition. The dissent emphasized that the trial court had access to grand jury minutes, video evidence, and the presentence report, which indicated separate acts. Even if consecutive sentences were not authorized, the dissent said the proper remedy was remittal to allow the People to withdraw consent to the plea, not modification on appeal.