

State of New York Court of Appeals

Case Background Summaries

January 6 through January 8, 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

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To be argued Tuesday, January 6, 2026

Cruz v Banks (134 F4th 687 [2nd Cir])
Court PASS Docket No. CTQ-2025-00002

Pursuant to the Individuals with Disabilities Act, plaintiff Neysha Cruz, on behalf of her child O.F., challenged the New York City Department of Education's (DOE) recommendation to place O.F. in a twelve-student classroom. Cruz argued that the DOE violated a New York regulation requiring placement in a classroom of no more than six students.

The relevant regulation, 8 NYCRR § 200.6(h)(4), sets maximum class sizes for students with disabilities based on their educational needs. Subdivision (ii)(a) mandates a six-student maximum for students whose management needs are deemed "highly intensive" and require a high degree of individualized attention and intervention. Subdivision (iii) allows a twelve-student maximum for students with "severe multiple disabilities" whose programs consist primarily of habilitation and treatment.

Cruz argued that because O.F. has both "highly intensive" management needs and "severe multiple disabilities," the DOE must comply with both subsections and place O.F. in a classroom of no more than six students. The DOE argues that the regulation provides a continuum of classroom types and the Committee on Special Education (CSE) must use its clinical expertise to determine which best fits the student's needs. The DOE asserts that the simultaneous compliance with multiple subsections is not required.

The State Review Officer upheld the placement. The District Court affirmed, citing federal precedent supporting the DOE's discretion to choose among classroom types. The Second Circuit certified the following question to the New York Court of Appeals:

"When a student is covered by more than one class size regulation under § 200.6(h)(4), do the varying restrictions serve as distinct requirements that must be independently fulfilled or as a list of class size options from which the DOE may pick?"

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, January 6, 2026

People v Carlos Galindo (78 Misc3d 134[A] [App Term 2d, 11th, 13th])
Court PASS Docket No. APL-2024-00144

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

In January 2014, police found Carlos Galindo was asleep in the driver's seat of a parked car in Queens, with the engine and headlights on and an open beer bottle in hand. The car was stuck in a snowbank near a fire hydrant. Mr. Galindo, who did not have a driver's license, had been drinking and said he went to the car to listen to music and stay warm, but was not going to drive the car. His son corroborated this account. Police arrested Mr. Galindo for operating a motor vehicle while intoxicated and other related offenses.

Under New York's Vehicle and Traffic Law (VTL), "operation" requires the intent to move the vehicle. Defense counsel submitted a proposed jury instruction that said: "You must find beyond a reasonable doubt that he started the motor 'for the purpose of putting the automobile into motion.' In other words, you must find, as a factual matter, beyond a reasonable doubt that he intended to drive the vehicle and not merely occupy it."

The trial court instructed the jury using the standard Criminal Jury Instructions (CJI) definition of "operation," that says: "A person . . . operates a motor vehicle when such person is sitting behind the wheel of a motor vehicle for the purpose of placing the vehicle in motion and when the motor vehicle is moving, or even if not moving, the engine is running."

The jury convicted Mr. Galindo of unlicensed operation (VTL §509[1]) and consumption of alcohol in a motor vehicle (VTL §1227[1]). On appeal, Mr. Galindo argued that the trial court erred by refusing to give a tailored jury instruction clarifying that "operation" requires intent to move the vehicle. He also claimed a mode-of-proceedings error occurred when the court failed to read a jury note verbatim, which asked whether "operation" could be found solely if the engine was running.

The Appellate Term affirmed the convictions, finding the evidence legally sufficient and the verdict not against the weight of the evidence.

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, January 6, 2026

People v Agustin Morel (81 Misc3d 138[A] [App Term, 1st])
Court PASS Docket No. APL-2024-00086

Agustin Morel was charged with Operating a Vehicle While Ability Impaired by Drugs (VTL § 1192[4]). On February 17, 2015, at about 11:48 p.m., a police officer pulled over the car Mr. Morel was driving. In the accusatory instrument, the police officer stated “I know the defendant was under the influence of drugs because I smelled an odor of marijuana coming from the defendant’s clothing, I observed that the defendant had watery and bloodshot eyes, and I observed that the defendant had ash containing marijuana on his pants. The defendant stated, in substance: I had two puffs of marijuana before you stopped me.” The police officer further stated that they knew the ash contained marijuana based on their training, experience, and the odor. The police officer concluded that they advised defendant of his right to take a urine drug test and defendant refused to take the test.

Mr. Morel moved to dismiss the accusatory instrument as facially insufficient as it did not provide reasonable cause that Mr. Morel’s ability to operate the motor vehicle was impaired. Mr. Morel argued that allegations of marijuana odor, ash, and bloodshot eyes do not establish impairment of motor or cognitive skills or unsafe driving. In other words, according to Mr. Morel, VTL §1192(4) is effects-based, requiring proof of impairment, not mere use. Turning it into a “zero tolerance” law contradicts legislative intent.

The People countered that the complaint plus the sworn “Report of Refusal” established impairment: marijuana use, physiological signs (bloodshot eyes), traffic violations, and refusal to test. Erratic driving or overt symptoms are not required, the People asserted, because the statute focuses on ability impairment, not actual bad driving.

The trial court denied the motion and the Appellate Term affirmed. Both courts relied on *People v Cruz* (48 NY2d 419), an alcohol-related driving offense case where the Court of Appeals held a person’s ability to operate a motor vehicle is impaired by alcohol when the person “has actually impaired, to any extent, the physical and mental abilities which he is expected to possess in order to operate a vehicle as a reasonable and prudent driver.” Because impairment means any extent of diminished ability, the Appellate Term held that erratic driving or overt symptoms are not 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 Tuesday, January 6, 2026

People v Phillip Dondorfer (235 AD3d 71 [AD4])

Court PASS Docket No. APL-2025-00059

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

Just after midnight on July 14, 2022, Phillip Dondorfer was driving with his 15-year-old child as a passenger when police stopped his car for an expired inspection sticker. Mr. Dondorfer smelled of alcohol and marijuana, failed several field sobriety tests, and admitted to drinking alcohol and using marijuana. A drug recognition expert arrived on scene and concluded Mr. Dondorfer was impaired by alcohol and cannabis.

A grand jury indicted Mr. Dondorfer on a class E felony under Leandra's law: Aggravated Driving While Intoxicated with a Child (Vehicle and Traffic Law §1192[2-a][b]), predicated on Driving While Ability Impaired by the Combined Influence of Drugs or Alcohol and Any Drug or Drugs (§1192[4-a]), while a child under 15 was in the vehicle.

County Court dismissed the felony count, ruling that the People misinstructed the grand jury on the definition of "impaired" in VTL § 1194[4-a]. The People used the *People v Cruz* (48 NY2d 419) definition of "impaired." In *Cruz*, the Court of Appeals distinguished between two alcohol-related offenses: Driving While Intoxicated and Driving While Ability Impaired. The court held that a person's ability to operate a motor vehicle is impaired by alcohol when the person "has actually impaired, to any extent, the physical and mental abilities which he is expected to possess in order to operate a vehicle as a reasonable and prudent driver."

County Court, relying on the Appellate Division, Third Decision, decision in *People v Caden N.* (189 AD3d 84 [3d Dept 2020]), held the *Cruz* intoxication standard applied, that is, a person is "incapable of employing the physical and mental abilities which he or she was expected to possess in order to operate a vehicle as a reasonable and prudent driver." In *Caden N.*, the Third Department held that when a motorist is charged with vehicular manslaughter based on impairment by drugs, the term "impaired" has the same meaning as intoxication by alcohol.

On the People's appeal, the Appellate Division, Fourth Department, reversed and reinstated the felony count. Respectfully disagreeing with the Third Department's analysis in *Caden N.*, the Fourth Department here held that "impaired" should have a consistent meaning across the Vehicle and Traffic Law, as defined in *Cruz*.

State of New York Court of Appeals

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To be argued Tuesday, January 6, 2026

People v Jason J. Ambrosio (235 AD3d 1181 [AD3])
Court PASS Docket No. APL-2025-00072

In 2021, a jury convicted Jason Ambrosio of driving while ability impaired by drugs (marijuana) and driving while ability impaired by the combined influence of drugs (marijuana and buprenorphine), both class E felonies under Vehicle and Traffic Law §§1192(4) and (4-a).

Mr. Ambrosio appealed and argued that he was denied the effective assistance of trial counsel. Relying on *People v Caden N.* (189 AD3d 84 [2020]), Mr. Ambrosio argued that he was entitled to, and his attorney should have requested, a jury instruction that incorporated the heightened standard of intoxication by alcohol. Instead, his attorney requested, and County Court charged, the jury instruction for impairment, as defined in *People v Cruz* (48 NY2d 419).

The Appellate Division, Third Department, in a 4-1 decision, rejected the ineffective assistance of counsel claim. The court stated that its holding in *Caden N.* was expressly limited to the crime of vehicular manslaughter and did not extend to VTL §§1192(4) or (4-a). The court explained that “if it had also wished to apply the new definition of impairment to the underlying crime of driving while ability impaired by drugs or by a combination thereof, it surely would have explicitly said as much.” The majority concluded, in the absence of any clear legal authority, “it cannot be said that any reasonable defense counsel would have requested the intoxication instruction in place of the impairment instruction and counsel was not ineffective for failing to do so.”

The dissenting Justice reasoned that *Caden N.* provided appellate authority for trial counsel to seek a charge using the heightened standard but concluded that it was difficult to characterize *Caden N.* as so clear-cut that counsel’s failure to do so was constitutionally ineffective. The Justice concluded, however, that County Court’s failure to charge the jury with the heightened standard deprived defendant of a fair trial.

State of New York Court of Appeals

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To be argued Wednesday, January 7, 2026

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

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

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

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

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

State of New York Court of Appeals

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To be argued Wednesday, January 7, 2026

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

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

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

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

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

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

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

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

State of New York Court of Appeals

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To be argued Wednesday, January 7, 2026

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

Court PASS Docket No. APL-2025-00069

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

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

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

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

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

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

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

State of New York Court of Appeals

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To be argued Wednesday, January 7, 2026

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

Court PASS Docket No. APL-2024-00179

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

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

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

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

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

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

State of New York Court of Appeals

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To be argued Wednesday, January 7, 2026

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

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

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

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

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

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

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

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

State of New York Court of Appeals

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To be argued Thursday, January 8, 2026

Beadell v Eros Management (229 AD3d 43 [AD1])
Court PASS Docket No. APL-2025-00073

Dr. Noah Beadell, a neurologist attending a medical conference, died by suicide after jumping from a ledge outside his Manhattan hotel room. Earlier that day, Dr. Beadell expressed suicidal ideations to his out-of-state family via telephone. At 6:40 p.m., his family contacted the hotel and requested a welfare check. Staff complied and, at 6:46 p.m., reported that Dr. Beadell “appeared fine.” Dr. Beadell continued sending his family message indicating suicidal intent. At 7:12 p.m., his family again called the hotel and asked staff to contact the police. At 7:26 p.m., the hotel manager called the family to confirm whether they wanted police involvement. At 7:37 p.m., staff called 911 and an employee went in person to a nearby police precinct for assistance. Officers arrived, forced entry into the locked room, and found Dr. Beadell on the ledge. Efforts to talk him back into the room were unsuccessful.

Dr. Beadell’s family sued the hotel and related entities for negligence, alleged that the hotel assumed a duty of care by agreeing to check on him and notify police, then breached that duty by delaying action. The hotel moved for summary judgment, maintaining it owed no legal duty to prevent suicide.

Supreme Court denied summary judgment. On appeal, the Appellate Division, First Department, in a 4-1 decision, reversed.

The majority recounted that hotels generally owe a duty to maintain safe premises but are not insurers of guests’ safety. Liability for preventing suicide arises only in two circumstances: when the entity has physical custody (e.g., hospitals, jails) or is a mental health professional with expertise and control. The hotel was neither.

The majority acknowledged that an assumed duty could arise when conduct induces reliance and places the person in a more vulnerable position. However, it found the hotel’s actions—checking the room and later calling 911—did not worsen the situation or create new risks. Any assumed duty was limited to those acts, and the hotel performed both reasonably.

The dissenting Justice opined that by assuring family it would check on Dr. Beadell and call police, the hotel induced reliance, causing the family to refrain from calling 911 themselves. This voluntary undertaking imposed a duty to act with reasonable care. The dissent pointed to evidence of delays in calling 911 and accessing the room as sufficient to raise a triable issue of fact regarding breach.

State of New York Court of Appeals

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To be argued Thursday, January 8, 2026

People v Darling Alba (224 AD3d 461 [AD1])
Court PASS Docket No. APL-2024-00180

In January 2019, around 3:30 a.m., Darling Alba and another person entered the gated backyard of a Manhattan apartment building. Surveillance footage showed Mr. Alba crouching at a basement apartment window and making hand movements, suggesting an attempt to open it. He left after less than a minute, returned briefly, and again appeared to try to pry the window before fleeing. No damage or forced entry marks were found.

Mr. Alba was arrested and charged with attempted burglary in the second degree. Before jury selection, the court advised him of right to be present at every stage of the trial and confirmed that Mr. Alba wanted to waive that right (*see People v Antommarchi*, 80 NY2d 247).

The court explained:

“You have a right to be present at every stage of the trial and that includes conferences and where jurors want to discuss in private. When jurors want to talk privately, you’re agreeing to have your attorney be present and waive your personal appearance.”

The court added, “[i]n other words, your lawyer will tell you what’s being said. Not that it is a secret from you, you just won’t be present.” Mr. Alba orally agreed and executed a written waiver, stating that he had been advised of his right to be present at sidebar conferences during the trial, including jury selection and, after consulting with counsel, “waive[d] his right to be present at such conferences” and agreed to remain in his seat at the defense table during all such sidebar conferences.

As jury selection began, the court asked prospective jurors to form a line for individual questions. Mr. Alba’s counsel remarked, “My client should hear” and said he would prefer jurors “say it out loud.” The court responded, “You waived *Antommarchi*.” Sidebars with jurors proceeded without Mr. Alba present. The jury convicted him of attempted burglary in the second degree.

On appeal, Mr. Alba argued his *Antommarchi* waiver was limited to sidebars where jurors wished to speak privately and, even if broader, the trial court erred in denying his request to rescind it before any juror was questioned. He also challenged the sufficiency of the evidence. The People countered that Mr. Alba knowingly waived his right to attend all sidebar conferences, confirmed by a signed written waiver and oral colloquy, and never sought to rescind the waiver. The Appellate Division, First Department, affirmed, holding Mr. Alba did not preserve his claim and, alternatively, the trial court’s refusal to allow rescission would not constitute an abuse of discretion.

State of New York Court of Appeals

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To be argued Thursday, January 8, 2026

People v Jonathan Rios (225 AD3d 1285 [AD4])

Court PASS Docket No. APL-2025-00037 **case materials not available*

Jonathan Rios pleaded guilty to one count of robbery in the second degree in full satisfaction of an indictment charging two counts of robbery in the second degree.

During the plea proceeding, under oath, Mr. Rios admitted that on August 27, 2019, he forcibly stole money, lighters, cigarettes and beer from a clerk at a 7-Eleven and, while doing so, displayed what appeared to be a pistol, revolver or other firearm. The court accepted the guilty plea and ordered the probation department to prepare a presentence investigation report (PSR) before sentencing.

In his PSR interview, Mr. Rios said that he did not rob anyone. At sentencing, the court questioned Mr. Rios about his statements to the probation department. After an exchange between the court and Mr. Rios, where Mr. Rios said that he stood by his statements in the PSR interview but ultimately said he was guilty, the court proceeded with sentencing and imposed the agreed-upon sentence.

On appeal, Mr. Rios argued that his post-plea statements cast doubt on his guilt and required vacatur of his plea. The Appellate Division, Fourth Department, rejected this argument, holding that his challenge to the voluntariness of the plea was unpreserved because he did not move to withdraw the plea or vacate the judgment of conviction. The court further held that the case did not fall within the narrow exception to this preservation rule under *People v Lopez* (71 NY2d 662).

State of New York Court of Appeals

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To be argued Thursday, January 8, 2026

People v Amado Zubidi (233 AD3d 55 [AD1])
Court PASS Docket No. APL-2024-00160

On April 28, 2019, an eyewitness to a road-rage incident in Manhattan called 911 to report that the driver of a white Dodge Caravan threw a bottle and fired a gun at another car. The eyewitness provided the van's license plate number.

Police determined the plate was registered to a Dodge Caravan owned by Amado Zubidi and issued a "be on the lookout" (BOLO) safety alert describing the van and its plate number. The BOLO did not name Mr. Zubidi.

On May 17, 2019, a traffic enforcement agent approached a van illegally parked by a fire hydrant and scanned its registration to issue a ticket. The van suddenly sped away, nearly hitting the agent. The agent reported the van's description and plate number, which matched the BOLO.

The next morning, officers who responded to the May 17 incident saw the same van nearby and pulled it over. Mr. Zubidi was driving. During the stop, he retrieved a gun from the center console and pointed it at an officer. Police tased him and removed him from the van.

Mr. Zubidi was charged with multiple counts of criminal possession of a weapon, reckless endangerment, attempted assault and attempted murder. He moved to suppress all evidence from the stop, arguing police lacked reasonable suspicion. The trial court denied the motion.

Mr. Zubidi appealed from his conviction for second-degree criminal possession of a weapon and reckless endangerment. The Appellate Division, First Department, in a 4-1 decision, affirmed.

The majority held that the police had reasonable suspicion to stop the van based on the totality of the circumstances: the BOLO and license plate search linking the van to the April 28 shooting and the officers' knowledge of the May 17 incident where the same van nearly struck a traffic enforcement agent. The majority rejected the argument that police needed to identify the driver before the stop, holding that reasonable suspicion can rest on logical inferences from specific, articulable facts.

The dissent warned that relying on an "owner-driver inference" effectively creates an "owner-driver presumption," allowing police to stop cars based solely on prior involvement in a crime without individualized suspicion of the current driver.