

State of New York Court of Appeals

Case Background Summaries

May 20 through May 21, 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 Wednesday, May 20, 2026

People v Coggins (Tonie)

(236 AD3d 608 [AD1])

Court PASS Docket No. APL-2025-00159

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

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

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

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

State of New York

Court of Appeals

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To be argued Wednesday, May 20, 2026

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

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

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

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

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

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

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

State of New York Court of Appeals

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To be argued Wednesday, May 20, 2026

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

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

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

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

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

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

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To be argued Wednesday, May 20, 2026

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

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

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

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

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

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

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

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To be argued Wednesday, May 20, 2026

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

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

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

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

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

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To be argued Wednesday, May 20, 2026

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

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

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

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

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

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

State of New York Court of Appeals

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To be argued Thursday, May 21, 2026

Volokh v James (148 F4th 71 [Second Circuit])
Court PASS Docket No. CTQ-2025-00006

The U.S. Court of Appeals for the Second Circuit asked the New York State Court of Appeals to interpret parts of General Business Law § 394-ccc, a 2022 statute enacted a mass shooting in Buffalo. In that tragedy, the gunman used social media to post a manifesto and livestream part of the attack.

The law requires social media networks operating in New York to (1) provide a way for individual users to report incidents of “hateful conduct” and (2) have a clear and concise policy on their platform that includes how the network will respond and address reports of incidents of “hateful conduct.”

Hateful conduct is defined as the use of a social media network to vilify, humiliate, or incite violence against a group or a class of persons based on race, color, religion, ethnicity, national origin, disability, sex, sexual orientation, gender identity or gender expression. The law also says it should not be construed to impose obligations that “adversely affects the rights or freedoms of any persons, such as exercising the right of free speech pursuant to the First Amendment to the United States Constitution.”

The Attorney General is authorized to investigate violations, issue subpoenas and impose civil penalties up to \$1,000 per day for knowing noncompliance.

Plaintiffs—law professor Eugene Volokh and two social media companies, Rumble Canada and Locals Technology—sued the Attorney General, arguing the law is unconstitutional because it regulates and compels speech. The federal district court agreed and preliminarily enjoined enforcement.

On appeal, the Attorney General argued the law is a consumer-information measure, not a speech regulation. According to the State, platforms may comply without referencing “hateful conduct” at all: a general reporting tool, such as a general email address, would suffice if it could accept reports of hateful conduct, and platforms disclose any content-moderation policy they choose, including one stating they will not respond to reports. The State contends § 394-ccc does not require platforms to respond to reports.

Respondents countered that the statute mandates engagement with the State-defined category of “hateful conduct.” They argued that the reporting and policy disclosure parts are tied to that term and therefore cannot be satisfied by generic tools or policies. They further contended that the law’s purpose and legislative history show it was designed to pressure platforms to address disfavored speech, rendering the law unconstitutional.

The Second Circuit found the statute’s meaning central to resolving the constitutional challenge and certified questions of statutory interpretation to the New York Court of Appeals.

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To be argued Thursday, May 21, 2026

Reyes v City of New York ([Second Circuit])
Court PASS Docket No. CTQ-2025-00004

New York State's Right to Record Law (RTRL) (Civil Rights Law § 79-p) provides that a person not under arrest or in custody has the right to record law enforcement activity. New York City has a similar RTRL (NYC Admin. Code § 14-189). Both laws provide a private right of action, allowing a person who can establish unlawful interference with that right to seek damages.

The New York Police Department's (NYPD) Precinct Policy states that members of the public are not permitted to photograph or record police activity within any NYPD facility, including publicly accessible lobbies. The policy outlines a three-step enforcement process: an officer may order the person to stop recording; direct the person to leave the premises if they don't stop; and take proper enforcement action under trespass statutes if they don't leave.

SeanPaul Reyes, a YouTube-based "First Amendment auditor," entered NYPD precinct lobbies in 2023 while recording. NYPD officers ordered him to stop, citing the Precinct Policy, and arrested him when he refused to leave. All criminal charges were later dismissed. Reyes sued in federal court, arguing that the state and city RTRLs authorize recording police activity in any location open to the public, including precinct lobbies.

The City countered that the RTRLs do not override the longstanding common-law right of property owners—including government agencies—to regulate conduct on their premises and to exclude those who disregard lawful rules. The City asserted that the RTRLs' legislative history shows lawmakers intended only to codify the First Amendment right to record in traditional public places such as streets, sidewalks, and parks, and not inside police facilities.

The federal district court upheld the Precinct Policy under the First Amendment but ruled that the RTRLs likely prohibit the NYPD from enforcing the recording ban. The court issued a preliminary injunction directing the NYPD to not enforce the policy.

On appeal, the U.S. Court of Appeals for the Second Circuit certified the following question to the New York State Court of Appeals:

“Does either [New York or New York City Right to Record Law] afford individuals such as plaintiff Reyes the right to video record law enforcement activities inside public facilities—specifically, inside the publicly accessible lobbies of police stationhouses—notwithstanding a New York City Police Department policy forbidding any video recording inside its facilities?”

State of New York Court of Appeals

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To be argued Thursday, May 21, 2026

People v Kelley (Anton) (239 AD3 1269 [AD4])
Court PASS Docket No. APL-2025-00179

In the early morning of July 23, 2016, a Syracuse resident called 911 after hearing a gunshot outside her home. Police arrived to find a victim fatally shot on the sidewalk.

In 2019, Anton Kelley was arrested and interrogated. A grand jury indicted him on charges of murder in the second degree and criminal possession of a weapon in the second degree.

Before trial, Mr. Kelley repeatedly complained that his assigned attorney failed to communicate with him. In 2020, he requested new counsel. Concluding that Mr. Kelley's actions were a delay tactic, the trial court denied the request and ordered assigned counsel to continue.

During trial, Mr. Kelley pleaded guilty to first-degree manslaughter and waived his right to appeal. Mr. Kelley moved to withdraw his guilty plea. The trial court assigned new counsel for the motion, but denied it.

Mr. Kelley appealed, arguing that the trial court failed to conduct an appropriate inquiry into his requests for new counsel and that he did not receive effective assistance of counsel.

The Appellate Division, Fourth Department, affirmed. It held that, to the extent Mr. Kelley's arguments regarding the denial of new counsel implicated the voluntariness of his plea, he abandoned those requests by pleading guilty while represented by the same attorney. The court also noted that Mr. Kelley did not express dissatisfaction with counsel during the plea colloquy. The court further held that Mr. Kelley's ineffective-assistance claim did not survive his guilty plea or his waiver of the right to appeal because there was no showing that the plea-bargaining process was infected by the alleged ineffectiveness or that he entered the plea because of counsel's purported poor performance.

State of New York Court of Appeals

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To be argued Thursday, May 21, 2026

People v Fernandez (Andre) (236 AD3d 527 [AD1])
Court PASS Docket No. APL-2025-00133

In 2007, Andre Fernandez contacted the Bronx Homicide Task Force claiming he had information about two unsolved murders. At the precinct, he provided written and videotaped statements describing his involvement in a 1998 shooting during a robbery and a 2003 shooting. Mr. Fernandez was charged with second-degree murder and other crimes.

Mr. Fernandez moved to suppress his statements, alleging they were false and had been induced by a prosecutor's statement that Mr. Fernandez would receive immunity and payment for his information. He testified that he wrote a note with these terms after speaking with a prosecutor. A handwritten note requesting immunity and payment was found in law enforcement's files and introduced at the suppression hearing. The court denied the motion to suppress.

Following trial, a jury convicted Mr. Fernandez of two counts of murder in the second degree. At sentencing, Mr. Fernandez's trial counsel informed the court that Mr. Fernandez had just disclosed new information—that he had previously been found not competent to stand trial in another state following psychiatric evaluations. Trial counsel requested a competency hearing and asked to be relieved. The court denied the requests and sentenced Mr. Fernandez to 50 years to life.

Mr. Fernandez appealed. His appellate counsel moved to vacate the conviction pursuant to CPL 440.10, arguing that trial counsel was ineffective for failing to investigate Mr. Fernandez's impaired mental state at the time of his statements to law enforcement and for pursuing an uninformed defense strategy that prejudiced Mr. Fernandez.

The court denied the CPL 440.10 motion, finding trial counsel's strategy—to argue police inducement rather than mental impairment—was reasonable.

The Appellate Division unanimously affirmed the conviction and the denial of the CPL 440.10 motion, holding Mr. Fernandez received effective assistance of trial counsel and had now shown that any of trial counsel's alleged deficiencies fell below an objective standard of reasonableness.

State of New York Court of Appeals

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To be argued Thursday, May 21, 2026

People v Guerra (Diego) (231 AD3d 852 [AD2])
Court PASS Docket No. APL-2025-00080

In January 2017, an NYPD detective assigned to investigate online child-exploitation offenses used law-enforcement software to search a peer-to-peer file-sharing network. The software downloaded videos containing child sexual abuse material from an IP address associated with a multi-tenant residence in Queens. In July 2017, the NYPD executed a search warrant at the three-family house in Queens linked to that IP address. The house had been subdivided into individual rooms rented to numerous tenants, with shared kitchens and bathrooms. Officers seized a laptop from the second-floor room rented by Diego Guerra and a roommate. Mr. Guerra told officers he repaired computers and had found the laptop in the garbage a few months earlier; he said it was already connected to the building's Wi-Fi when he picked it up.

During the forensic examination, no viewable images or videos of child sexual abuse were found on the laptop. Instead, investigators found that the only child-sexual-abuse material was in the laptop's unallocated space, meaning it was not accessible to an ordinary user. Investigators also determined that a USB drive had previously been connected to the laptop and used as the device running the file-sharing software. That USB drive was not recovered from Mr. Guerra's room.

Mr. Guerra was charged with multiple counts of promoting a sexual performance by a child and possessing a sexual performance by a child. Before trial, Mr. Guerra's counsel and the People stipulated that (1) the videos depicted and promoted a performance including sexual conduct by a child; (2) whoever possessed the videos promoted a performance with knowledge of the character and content of such videos; and (3) whoever possessed the videos knowingly had them in their possession or control. The stipulation also limited the number of images that would be shown to the jury. Trial counsel pursued a defense that Mr. Guerra lacked knowledge of the materials because multiple people lived in the residence, the laptop was not password-protected, and others could have used it.

A jury convicted Mr. Guerra. On appeal, Mr. Guerra argued that trial counsel was ineffective for agreeing to a stipulation that conceded elements of the crimes.

A majority of the Appellate Division, Second Department, reversed the conviction and ordered a new trial. The majority held that defense counsel was ineffective because the stipulation included incorrect and prejudicial language—that whoever possessed the material necessarily did so knowingly—that eliminated the mens rea element and were not part of any legal strategy or tactic. Two Justices dissented, opining that counsel's performance was not ineffective. They reasoned that the stipulation was part of a strategy to narrow the issues for the jury and limit the amount of prejudicial material shown, and that counsel focused on whether Mr. Guerra possessed the images at all.