

CENTER FOR APPELLATE LITIGATION

120 WALL STREET - 28TH FLOOR, NEW YORK, NY 10005 TEL. (212) 577-2523 FAX 577-2535



EXECUTIVE DIRECTOR
JENAY NURSE GUILFORD

LEGAL DIRECTOR
MARK W. ZENO

MANAGING ATTORNEY
DAVID J. KLEM

BARBARA ZOLOT
SENIOR COUNSEL
CO-DIRECTOR COURT OF APPEALS LITIGATION

MEMORANDUM

To: Chief Defenders & Colleagues
From: Barbara Zolot
Date: July 15, 2026
Subject: Attached

Here is a list of significant criminal cases pending in the New York Court of Appeals and the issues presented. Cases that the Court has selected for SSM consideration are generally not included. Leave grants were to the defendant unless otherwise noted.

The Center does this update every two months for its own attorney staff. As a matter of professional courtesy, we also send it to Chief Defenders who do substantial appellate work. Feel free to distribute copies to any members of your staff. This update is also available on our web site (www.appellate-litigation.org).

Although every attempt has been made to ensure the accuracy of the summaries, no express or implied guarantees are made. If your office is handling one or more of these cases and wishes to share some insight not apparent from the intermediate appellate court decision or the Clerk's summary of issues, please feel free to contact me. Your input will be added to the next edition.

We offer a special feature to our online visitors. Our online "Eye on Eagle" section (NYCA link) includes pdf links to all decided cases, and, for selected cases, a short CAL blog flagging what we think is important or noteworthy about the cases.

**COURT OF APPEALS UPDATE -
Center for Appellate Litigation**

**CRIMINAL CASES CURRENTLY PENDING IN
THE NEW YORK COURT OF APPEALS**

I. Cases Awaiting Decision

State of NY ex rel. Louis M. v. Popiel - APL-2025-00176

AD1 order dated January 1, 2025, affirming denial of writ and dismissal of proceeding. Decision below: 234 A.D.3d 462. Leave to appeal granted by the Court of Appeals on September 18, 2025 following *sua sponte* examination of whether a substantial constitutional question was directly involved where petitioner challenged only conditions of confinement and did not seek immediate release. Argued May 20, 2026.

ISSUE PRESENTED: Whether the writ of habeas corpus lies to challenge the use of restraints on an arrestee during a psychiatric hospitalization. (Assigned counsel: Mental Hygiene Legal Service, 41 Madison Avenue, 26th Floor, New York, NY 10010.)

II. Cases Scheduled for Argument

People v. Darnell M. Martin - APL-2025-00161 (People's appeal)

AD3 order dated June 26, 2025, reversing judgment. Decision below: 242 A.D.3d 18. Dissenter (Mackey, J.) granted leave to appeal on August 18, 2025. Scheduled for argument September 16, 2026.

ISSUE PRESENTED: Whether Penal Law § 222.05 (3) (a), enacted as part of the Marihuana Regulation and Taxation Act, applies to a post-enactment suppression hearing concerning a pre-enactment search. (Counsel: Adam Parisi, Esq., 650 Franklin Ave., Suite 502, Schenectady, NY 12305.)

People v. Joshua Cheristin - APL-2025-00212

AD2 order dated June 4, 2025, affirming judgment. Decision below: 239 A.D.3d 670. Rivera, J., granted leave on December 8, 2025. Scheduled for argument September 16, 2026.

ISSUES PRESENTED: (1) Whether an appeal waiver is valid when the plea court informs defendant that the appeal waiver is a condition of the plea prior to the defendant's factual allocution but the full appeal waiver

**COURT OF APPEALS UPDATE -
Center for Appellate Litigation**

colloquy occurs after the factual allocution; (2) whether Penal Law § 222.05(3)(a), enacted as part of the Marihuana Regulation and Taxation Act, applies to a post-enactment suppression hearing concerning a pre-enactment search. (Assigned counsel: Patricia Pazner, Appellate Advocates, 111 John St., 9th Floor, NYC 10038.)

People v. Rahmel Howard - APL-2025-00213

AD2 order dated July 2, 2025, affirming judgment. Decision below: 240 A.D.3d 513. Rivera, J., granted leave on December 8, 2025. Scheduled for argument September 16, 2026.

ISSUE PRESENTED: (1) Whether an appeal waiver is valid when the plea court informs defendant that the appeal waiver is a condition of the plea prior to the defendant's factual allocution but the full appeal waiver colloquy occurs after the factual allocution. (Assigned counsel: Patricia Pazner, Appellate Advocates, 111 John St., 9th Floor, NYC 10038.)

People v. Stephen Mears - APL-2025-00147

AD2 order dated February 13, 2025 affirming judgment. Decision below: 235 A.D.3d 779. Halligan, J., granted leave on July 29, 2025. Scheduled for argument September 17, 2026.

ISSUE PRESENTED: Whether the defense of justification applies to the crime of endangering the welfare of a child and, if so, whether there was any reasonable view of the evidence that defendant's conduct was justified such that a justification charge should have been given to the jury regarding that count. (Counsel: Matthew W. Brissenden, P.C., 666 Old Country Road, Suite 501, Garden City, NY 11530.)

People v. Hannah T. - APL-2025-00185 (People's appeal)

AD4 order dated July 25, 2025, modifying judgment as a matter of discretion in the interest of justice by reducing the sentence of imprisonment imposed and, as modified, affirmed. Decision below: 240 A.D.3d 1260. Dissenter (Curran J.) granted leave to appeal on September 29, 2025. Scheduled for argument September 17, 2026.

ISSUE PRESENTED: Whether the Appellate Division was barred from sua sponte reducing defendant's sentence in the interest of justice where defendant validly waived the right to appeal and did not request such relief

**COURT OF APPEALS UPDATE -
Center for Appellate Litigation**

from the Appellate Division. (Assigned counsel: Danielle C. Wild, Esq., P.O. Box 25646, Rochester, NY 14625; *amicus curiae*: The Chief Defenders Association of New York.)

People v. David Ekukpe -APL 2025-00167

AD1 Order dated March 18, 2025 affirming judgment. Decision below: 236 A.D.3d 528. Wilson, C.J., granted leave on September 4, 2025. Scheduled for argument September 17, 2026.

ISSUES PRESENTED: (1) Whether CPL 30.30(6), which provides that an order denying a statutory speedy-trial motion “shall be reviewable upon an appeal from an ensuing judgment notwithstanding the fact that such judgment is entered upon a plea of guilty” forecloses an appellate court from enforcing an appeal waiver against a statutory speedy trial claim; (2) if not, whether the state constitutional right to due process and the state constitutional right to appeal preclude enforcement of an appeal waiver against a statutory-speedy-trial claim. (Assigned counsel: Matthew Bova and Jenay Nurse Guilford, Center for Appellate Litigation, 120 Wall Street - 28th floor, New York, NY 10005; *amicus curiae*: The Chief Defenders Association of New York.)

People v. Tammy Nantan- APL-2025-00191

AT1 order dated May 12, 2025, affirming judgment. Decision below: 85 Misc.3d 142(A). Wilson, C.J., granted leave on October 27, 2025. Scheduled for argument September 17, 2026.

ISSUE PRESENTED: Whether CPL 30.30(6), which provides that an order finally denying a motion to dismiss pursuant to CPL 30.30(1) shall be reviewable on an appeal from a judgment of conviction notwithstanding a plea of guilty, applies where the plea was entered prior to January 1, 2020 and a direct appeal was pending when CPL 30.30 (6) was enacted. (Assigned counsel: Twyla Carter, Esq., Legal Aid Society, 199 Water Street, New York, NY 10038.)

People v. Antrell Davis - APL-2025-00210

AD4 order dated January 31, 2025, affirming judgment. Decision below: 234 A.D.3d 1356. Garcia, J., granted leave on December 4, 2025. Scheduled for argument October 20, 2026.

**COURT OF APPEALS UPDATE -
Center for Appellate Litigation**

ISSUE PRESENTED: Whether Penal Law § 265.03(3) is facially unconstitutional in light of *NYSRPA v. Bruen* (597 US 1 [2022]) because the statute does not define the lack of licensure or other disqualifying factors as essential elements of the crime. (Assigned counsel: Julie A. Cianca, Esq., Monroe County Public Defender, 10 North Fitzhugh Street, Rochester, NY 14614.)

People v. Kyle D. Ernst- APL-2025-00180 (People's appeal)

AD4 order dated July 25, 2025, affirming judgment. Decision below: 240 A.D.3d 1252. Dissenter (Curran, J.) granted leave to appeal on September 18, 2025. Scheduled for argument October 20, 2026.

ISSUES PRESENTED: (1) Whether the People failed to exercise due diligence in disclosing certain discovery materials; (2) whether defendant's omnibus motion was still pending before Supreme Court such that the relevant time was not chargeable to the People under CPL 30.30(4)(a). (Counsel: Texido Law, 69 Delaware Ave., Room 1100, Buffalo, NY 14202.)

People v. Terry Everson - APL-2025-00168

AD4 order dated July 25, 2025, affirming judgment. Decision below: 240 A.D.3d 1343. Dissenter below (Ogden, J.) granted leave to appeal on August 8, 2025. Scheduled for argument October 20, 2026.

ISSUE PRESENTED: Whether the trial court's denial of defendant's request for an adjournment violated CPL 245.80(1)(a) where the People failed to disclose certain documents used in a fingerprint analysis. (Counsel: Banasiak Law Office, PLLC, 120 E. Washington St., Ste 815, Syracuse, NY 13202-4095.)

People v. Jaleel S.- APL-2025-00217 (People's appeal)

AD2 order dated July 30, 2025, reversing hearing court's summary denial of defendant's 440.20 motion. Decision below: 240 N.Y.S.3d 432. Halligan, J., granted leave on December 12, 2025. Scheduled for argument October 21, 2026.

ISSUE PRESENTED: Whether a defendant may seek to set aside a sentence under CPL 440.20 on the ground that the sentencing court failed to make a youthful offender determination. (Counsel: Eric Nelson, Esq.,

**COURT OF APPEALS UPDATE -
Center for Appellate Litigation**

54 Florence Street, Staten Island, NY 10308).

People v. Jose Lacen - APL-2025-00135

AD1 order dated July 18, 2024 affirming judgment. Decision below: 229 A.D.3d 435. Troutman, J., granted leave on July 9, 2025. Scheduled for argument October 21, 2026.

ISSUE PRESENTED: Whether the record establishes that the testifying analyst sufficiently participated in the testing process or conducted a meaningful review of the DNA data for purposes of the Confrontation Clause. (Assigned counsel: Barbara Zolot and Jenay Nurse Guilford, Center for Appellate Litigation, 120 Wall Street - 28th floor, New York, NY 10005.)

People v. Tyshawn Morris- APL-2025-00202

AD1 order dated May 29, 2025, affirming judgment. Decision below: 238 A.D.3d 680. Halligan, J., granted leave on November 14, 2025. Scheduled for argument October 22, 2026.

ISSUES PRESENTED: (1) Whether execution of the search warrant for defendant's cell phone was untimely under CPL 690.30(1) and defendant's motion to controvert the warrant should have been granted where the warrant provided that it shall be deemed executed upon delivery of the cell phone to a forensic facility for analysis; (2) whether the search warrant's authorization to review all contents on defendant's cell phone was overly broad or insufficiently particular; (3) whether defendant's 30.30 motion was properly denied. (Assigned counsel: Caprice R. Jenerson, Esq, Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, NY 10007.)

People v. Ricardo Casiano - APL-2025-00162

AD4 order dated July 25, 2025, modifying judgment by reducing sentence in the interest of justice and affirming as modified. Decision below: 240 A.D.3d 1212. Dissenter (Ogden, J.) granted to appeal on August 19, 2025. Scheduled for argument October 22, 2026.

ISSUES PRESENTED: (1) Whether defendant was in custody for *Miranda* purposes when the police approached him in his backyard in response to shots fired; (2) whether defendant's subsequent statements were tainted by

**COURT OF APPEALS UPDATE -
Center for Appellate Litigation**

the earlier statements such that suppression was warranted; (3) whether defendant was deprived of his ability to present a defense at trial. (Assigned counsel: Julie A. Cianca, Esq., Monroe County Public Defender, 10 North Fitzhugh Street, Rochester, NY 14614.)

People v. Jonathan Spinks- APL-2025-00177

AD4 order dated July 25, 2025, affirming judgment. Decision below: 240 A.D.3d 1176. Dissenter (Whalen, J.) granted leave on September 11, 2025. Scheduled for argument October 22, 2026.

ISSUE PRESENTED: (1) Whether Supreme Court properly consolidated the indictments; (2) whether defendant was deprived of a fair trial. (Counsel: Keem Appeals, PLLC, 333 East Onondaga Street, Suite 301, Syracuse, NY 13202-2056.)

III. Cases Waiting to be Scheduled

People by James v. Trump - APL-2025-00171

AD1 order dated August 21, 2025, modifying judgment. Decision below: 237 N.Y.S.3d 443. *Sua sponte* examination of whether the appeals and cross-appeal lie as of right under CPLR 5601(a) or 5601(b)(1).

ISSUES PRESENTED: (1) Whether the judgment was properly affirmed as modified; (2) whether the disgorgement awards were properly vacated; (3) whether the Attorney General had the power to bring this action under Executive Law § 63(12); (3) whether Executive Law § 63(12) is unconstitutional as applied. (Counsel for Trump: Sullivan & Cromwell LLP, 125 Broad Street, New York, NY 10004.)

People v. Jorge P.- APL-2025-00189

AD1 order dated January 14, 2025, affirming judgment. Decision below: 234 A.D.3d 530. Court of Appeals granted leave on October 21, 2025.

ISSUE PRESENTED: Whether the Appellate Division erred in holding that residency restrictions under the Sexual Assault Reform Act could not qualify as a mitigating factor for purposes of a Sex Offender Registration Act downward departure. (Assigned counsel: Twyla Carter, Esq., Legal Aid Society, 199 Water Street, New York, NY 10038.)

**COURT OF APPEALS UPDATE -
Center for Appellate Litigation**

People v. Timothy Smith- APL-2025-00194

AD4 order dated July 25, 2025, affirming judgment. Decision below. 240 A.D.3d 1218. Dissenter (Ogden, J.) granted leave on October 27, 2025.

ISSUES PRESENTED: (1) Whether the police officers' request to frisk and pursuit of defendant were lawful; (2) whether defendant was deprived of the effective assistance of counsel. (Assigned counsel: Philip Rothschild, Esq., Hiscock Legal Aid Society, 351 South Warren Street, Syracuse, NY 13202-2057.)

People v. Tyrell Gaddy - APL 2025-00214

AD2 order dated August 6, 2025, affirming judgment. Decision below: 241 A.D.3d 578. Rivera, J., granted leave on December 8, 2025.

ISSUE PRESENTED: Whether there is record support for the Appellate Division's determination that the police officer's inquiry whether defendant possessed any weapons was justified by a founded suspicion of criminal activity. (Counsel: Matthew W. Brissenden, P.C., 666 Old Country Road, Suite 501, Garden City, NY 11530.)

People v. Earl Jefferson - APL-2025-00206

AD2 order dated July 24, 2024, affirming judgment. Decision below: 229 A.D.3d 723. Warhit, J. (who had concurred in the judgment), granted leave on November 17, 2025.

ISSUES PRESENTED: (1) Whether the motion court properly determined that an undisclosed recorded statement did not constitute *Brady* material or newly discovered evidence; (2) whether, following a hearing, defendant's CPL article 440 motion was properly denied. (Counsel: Richard Mischel, 48 Wall Street, Suite 1203, New York, NY 10005.)

People v. Ray Vassell - APL- 2025-0221

AD2 order dated March 19, 2025, modifying sentence and affirming judgment. Decision below: 236 A.D.3d 933. Halligan, J., granted leave on December 22, 2025.

ISSUES PRESENTED: (1) Whether defendant was denied the effective

**COURT OF APPEALS UPDATE -
Center for Appellate Litigation**

assistance of appellate counsel, the right of confrontation, or due process by the denial of access on direct appeal to a trial exhibit consisting of a photograph of the victim; (2) whether the trial court erred in denying defendant's request to delay the proceedings for him to receive ashes for Ash Wednesday. (Assigned counsel: Patricia Pazner, Appellate Advocates, 111 John St., 9th Floor, NYC 10038.)

People v. Jamarly Williams- APL-2025-00207

AD1 order dated September 18, 2025, affirming judgment. Decision below: 241 A.D.3d 1106. Dissenter (Gesmer, J.) granted leave on November 20, 2025.

ISSUES PRESENTED: (1) Whether defendant's motion to suppress the eyewitness's identification was properly denied; (2) whether the trial court abused its discretion in permitting the eyewitness to identify defendant in surveillance video footage; (3) whether the eyewitness' testimony was incredible as a matter of law; (4) whether trial counsel was ineffective for failing to move to renew the motion to dismiss the indictment and for failing to object to statements made by the prosecutor. (Assigned counsel: Molly Booth and Jenay Nurse Guilford, Center for Appellate Litigation, 120 Wall Street - 28th floor, New York, NY 10005.)

People v. Glaston Gaines - APL 2026-00006

AD 4 order dated June 6, 2025, affirming judgment. Decision below: 239 A.D.3d 1350. Wilson, CJ, granted leave on January 15, 2026.

ISSUES PRESENTED: (1) Whether the *Lopez* exception to the preservation rule is triggered by post-allocation statements at sentencing that call into question the voluntariness of the guilty plea; (2) whether defendant's appeal waiver is invalid where the waiver was not requested by the People but was required by the plea court in exchange for its sentencing commitment. (Assigned counsel: David C. Schopp, Esq., Legal Aid Bureau of Buffalo, Inc., 290 Main Street, Suite 400, Buffalo NY 14202.)

People v. Chad Hooks - APL-2026-00011

AD1 order dated October 7, 2025, affirming judgment. Decision below: 242 A.D.3d 463. Cannataro, J., granted leave on January 30, 2026.

ISSUE PRESENTED: Whether the license plate frame on the vehicle in

**COURT OF APPEALS UPDATE -
Center for Appellate Litigation**

which defendant was an occupant provided probable cause for a stop of the vehicle for a violation of Vehicle and Traffic Law § 402 (1)(b). (Assigned counsel: Jacquelyn Shelton and Jenay Nurse Guilford, Center for Appellate Litigation, 120 Wall St., 28th Floor, NYC 10005.)

People v. Christopher D. Hoffman - APL-2026-00016

AD3 order dated December 24, 2025, affirming judgment. Decision: 244 A.D.3d 1588. Dissenter (Mackey, J.), granted leave on February 3, 2026.

ISSUES PRESENTED: (1) Whether County Court erred and abused its discretion by denying disclosure of materials relating to, and cross-examination regarding, the victim's prior allegations of sexual abuse; (2) whether County Court erred and abused its discretion by precluding or limiting evidence regarding the victim's alleged viewing of pornography and alleged use of a vibrator as irrelevant or precluded by the Rape Shield Law; (3) whether defendant was deprived of a fair trial by County Court's statement to the jury that a delay was caused by the defense's failure to disclose certain materials and County Court's refusal to provide a curative instruction; (4) whether County Court erroneously curtailed defendant's cross-examination of the victim about an alleged prior inconsistent statement and whether defendant preserved an objection on Confrontation Clause grounds; (5) whether County Court abused its discretion by precluding three of five proffered witnesses concerning the victim's bad reputation for truth and veracity. (Counsel: Hancock Estabrook, LLP, 1800 Axa Tower I, 100 Madison Street, Suite 1800, Syracuse NY 13202.)

People v. Artis Anderson, Jr. - APL-2026-00014

AD4 order dated November 21, 2025, affirming judgment. Decision below: 243 A.D.3d 1246. Dissenter (Bannister, J.), granted leave to appeal on January 27, 2026.

ISSUES PRESENTED: (1) Whether defendant's appeal waiver was valid and encompassed the denial of his suppression motion; (2) whether defendant's suppression motion was properly denied. ((Assigned counsel: Julie A. Cianca, Esq., Monroe County Public Defender, 10 North Fitzhugh Street, Rochester, NY 14614.)

People v. Javyon J. Ogden - APL 2026-00017

AD4 order dated December 23, 2025. Decision below: 244 A.D.3d 1774.

**COURT OF APPEALS UPDATE -
Center for Appellate Litigation**

Dissenter (Ogden, J.), granted leave to appeal on February 10, 2026.

ISSUE PRESENTED: Whether defendant's appeal waiver barred review of his contention that the court erred in declining to remove the case to Family Court under CPL 722.23. (Assigned counsel: Andrew D. Correia, Esq., Wayne County Public Defender, 26 Church Street, Second Floor, Lyons, NY 14489.)

People v. Mohammed Jawad - APL 2026-00020

AT2 order, dated August 13, 2024, reversing dismissal of accusatory instrument on 30.30 grounds and reinstating accusatory instrument. Decision below: 84 Misc.3d 31. Troutman, J., granted leave to appeal on February 20, 2026.

ISSUES PRESENTED: Whether misconduct allegations against a testifying police officer that arose from an unrelated incident were subject to disclosure under CPL 245.20; (2) whether the People complied with discovery obligations by disclosing Law Enforcement Officer as Witness summaries instead of disciplinary files; (3) whether CPL 245.20 required the People to disclose records for non-testifying officers; (4) whether the People exercised due diligence such that the certificate of compliance was valid. (Assigned counsel: Twyla Carter, Esq., Legal Aid Society, 199 Water Street, New York, NY 10038.)

People v. Keston Mayers - APL 2026-00022

AD2 order, dated September 10, 2025, dismissing appeal. Decision below: 241 A.D.3d 1365. Wilson, C.J., granted leave to appeal on February 25, 2026.

ISSUES PRESENTED: Whether an order determining a CPL 440.46-a motion is appealable as of right by the defendant; (2) whether a conviction may be vacated under CPL 440.46 without substitution of a conviction if the court determines that substitution is not in the interests of justice. (Assigned counsel: N. Scott Banks, Esq., Legal Aid Society of Nassau County, 40 Main Street, 3rd Floor, Hempstead, NY 11550.)

People v. Lawrence Harris - APL 2026-00015

AD2 order, dated September 10, 2025, dismissing appeal. Halligan, J., granted leave to appeal on February 5, 2026.

**COURT OF APPEALS UPDATE -
Center for Appellate Litigation**

ISSUES PRESENTED: Whether the Appellate Division abused its discretion in dismissing defendant's appeal; (2) whether the dismissal of defendant's appeal violated defendant's due process rights absent evidence that defendant received instructions on how to seek financial relief and the full record had not yet been provided to defendant's counsel defending against the dismissal. (Assigned counsel: Patricia Pazner, Appellate Advocates, 111 John St., 9th Floor, NYC 10038.)

People v. Anthony Matthews- APL 2026-00013

AD2 order, dated September 10, 2025, dismissing appeal. Troutman, J., granted leave to appeal on February 5, 2026.

ISSUE PRESENTED: Whether the Appellate Division abused its discretion in dismissing defendant's appeal. (Assigned counsel: Patricia Pazner, Appellate Advocates, 111 John St., 9th Floor, NYC 10038.)

People v. Salina Brown-Shook - APL 2026-00036 (People's appeal)

AD3 order, dated January 15, 2026, reversing judgment of conviction. Decision below: 245 A.D.3d 1028. Dissenter below (Clark, J.), granted leave to appeal on March 19, 2026.

ISSUES PRESENTED: Whether the Appellate Division erred in concluding that the exception to the preservation requirement applied to defendant's challenge to her plea based on her statements at a post-plea hearing on her application for alternative sentencing; (2) whether the Appellate Division erred by vacating defendant's guilty plea; (3) whether defendant was denied the effective assistance of counsel. (Counsel: Amanda FiggsGanter, Esq., 418 Broadway #5626, Albany, NY 12207.)

People v. Robert Ortiz - APL 2026-00031

AD1 order, dated December 31, 2024, affirming judgment of conviction and denial of 440.10 motion. Decision below: 233 A.D.3d 628. Troutman, J., granted leave to appeal on March 17, 2026.

ISSUES PRESENTED: Whether the Appellate Division lacked jurisdiction, under CPL 470.15 (1) and *People v LaFontaine* (92 NY2d 470 [1998]), to determine whether defendant was subject to a strip search; (2) whether defendant was subject to a strip search when a police officer pulled his

**COURT OF APPEALS UPDATE -
Center for Appellate Litigation**

pants and underwear forward and reached into defendant's underwear to retrieve a bag that contained drugs. (Assigned counsel: Caprice R. Jenerson, Esq, Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, NY 10007.)

People v. Michael Erber - APL 2026-00038

AD2 order, dated November 19, 2025, affirming judgment of conviction. Decision below: 243 A.D.3d 804. Halligan, J., granted leave to appeal on April 9, 2026.

ISSUES PRESENTED: (1) Whether a defendant is required to preserve a challenge to the Attorney General's prosecutorial authority under Executive Law § 63 (3); (2) whether the grand jury evidence was legally insufficient to establish grand larceny in the second degree, grand larceny in the third degree, and scheme to defraud in the first degree and whether insufficiency was cured by legally sufficient evidence at trial; (3) whether defendant was deprived of the effective assistance of counsel based on counsel's failure to object that the trial evidence was legally insufficient; (4) whether the court erred in allowing the prosecution to introduce evidence that defendant may have made false allegations against one of the complainants. (Assigned counsel: Twyla Carter, Esq., Legal Aid Society, 199 Water Street, New York, NY 10038.)

IV. New Leave Grants

People v. Reynaldo Andino - APL 2026-00050

AD1 order, dated October 7, 2025, affirming judgment of conviction. Decision below: 242 A.D.3d 470. Wilson, C.J., granted leave to appeal on April 27, 2026.

ISSUE PRESENTED: Whether the search warrant application contained reasonable cause to believe that the property sought may be easily and quickly destroyed or disposed of, or that notice may endanger life or safety, such that the no-knock warrant provision was valid. (Assigned counsel: Alma Gonzalez and Jenay Nurse Guilford, Center for Appellate Litigation, 120 Wall St., 28th Floor, NYC 10005.)

People v. Devon Y. - APL 2026-00056

AD3 order, dated March 19, 2026, affirming order denying DVSJA

**COURT OF APPEALS UPDATE -
Center for Appellate Litigation**

application. Decision below: 247 A.D.3d 1367. Dissenter below (Aarons, J.) granted leave to appeal on May 1, 2026.

ISSUE PRESENTED: Whether defendant's application for resentencing pursuant to the Domestic Violence Survivors Justice Act was properly denied on the ground that the abuse was not inflicted "at the time of the instant offense" within the meaning of Penal Law § 60.12 (1) (a) because the abuse occurred several years prior to the conduct underlying the criminal conviction. (Assigned counsel: Elizabeth M. Corrado, Ulster County Public Defender, 280 wall Street, Suite 3, Kingston, NY 12401-3880.)

People v. David T. - APL 2026-00057

AD3 order, dated October 9, 2025, affirming judgment. Decision below: 242 A.D.3d 1272. Troutman, J., granted leave to appeal on May 7, 2026.

ISSUE PRESENTED: Whether County Court erred by failing to conduct a hearing pursuant to the Domestic Violence Survivors Justice Act (Penal Law § 60.12) based on defendant's statements at sentencing. (Counsel: Jan Perlin, Esq., P.O. Box 15, Oak Hill NY 12460.)

People v. Shala Williams - APL 2026-00067 (People's appeal)

AD4 order, dated March 27, 2026, reversing judgment of conviction. Decision below: 247 A.D.3d 1597. Dissenter below (Greenwood, J.) granted leave to appeal on May 5, 2026.

ISSUE PRESENTED: Whether the trial court abused its discretion in denying defendant's request that a witness's testimony from a prior CPL article 440 hearing be admitted into evidence as a statement against penal interest. (Counsel: John R. Lewis, Esq., 36 Hemlock Dr., Sleepy Hollow, NY 10591.)

People v. Jimmie Wright - APL 2026-00055

AD4 order, dated February 11, 2026, affirming judgment of conviction. Decision below: 246 A.D.3d 1429. Dissenter below (Ogden, J.) granted leave to appeal on April 30, 2026.

ISSUES PRESENTED: (1) Whether there was a "reasonable view" of the evidence that would support a finding that defendant acted recklessly,

**COURT OF APPEALS UPDATE -
Center for Appellate Litigation**

rather than intentionally, such that Supreme Court erred by denying defendant's request to charge manslaughter in the second degree as a lesser included offense of murder in the second degree; (2) whether defendant was deprived of the effective assistance of counsel. (Assigned counsel: Chelsea L. Palmisano, Esq., Monroe County Conflict Defender, 16 East Main Street, Suite 600, Rochester, NY 14614.)

People v. Zhamir Powell - APL 2026-00087

AD2 order, dated December 10, 2025, affirming judgment of conviction. Decision below: 244 A.D.3d 872. Troutman, J., granted leave to appeal on June 11, 2026.

ISSUE PRESENTED: Whether the trial court erred by failing to order an updated presentence report, upon remittal for resentencing pursuant to *People v Rudolph* (21 NY3d 497 [2013]), where the original PSR did not contain a recommendation regarding youthful offender status. (Assigned counsel: Patricia Pazner, Appellate Advocates, 111 John St., 9th Floor, NYC 10038.)