NEW YORK APPELLATE DIGEST, INC.

Weekly Reversal Report
March 30 – April 3, 2026

An Organized Compilation of Summaries of Selected Decisions, Mostly Reversals, Released by Our New York State Appellate Courts March 30 – April 3, 2026, and Posted on the New York Appellate Digest Website on Monday, April 6, 2026. The Entries in the Table of Contents Link to the Summaries Which Link to the Full Decisions on the Official New York Courts Website. Click on “Table of Contents” in the Header on Any Page to Return There. Right Click on the Citations to Keep Your Place in the Reversal Report.

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A PLAINTIFF NEED NOT SUBMIT ANY EVIDENCE IN OPPOSITION TO A MOTION TO DISMISS AS OPPOSED TO A MOTION FOR SUMMARY JUDGMENT; HERE THE COMPLAINT STATED CAUSES OF ACTION FOR MEDICAL MALPRACTICE AND LACK OF INFORMED CONSENT; CRITERIA EXPLAINED (SECOND DEPT).

The Second Department, reversing Supreme Court, determined the motion to dismiss the medical malpractice complaint should not have been granted, noting

that a plaintiff need not present any evidence in opposition to a motion to dismiss, as opposed to a motion for summary judgment:

Supreme Court improperly granted the motion of [defendants] pursuant to CPLR 3211(a)(7) to dismiss the amended complaint insofar as asserted against them based on the plaintiff's failure to comply with the court's earlier directive "to provide an affidavit from a physician attesting [to] the merits of her claims." The burden does not shift to the nonmoving party on a motion pursuant to CPLR 3211(a)(7). A plaintiff need not make an evidentiary showing in support of the complaint in order to defeat such a motion and will not be penalized for failure to do so … . Here, where the motion was not converted into one for summary judgment, the plaintiff had no obligation to provide an affidavit from an expert to support the allegations in the amended complaint in order to defeat the [defendants'] motion … . * * *

… [A]ccepting the allegations in the amended complaint as true and according the plaintiff the benefit of every possible favorable inference, the amended complaint sufficiently stated causes of action alleging medical malpractice and lack of informed consent … . Wilber v Borgen, 2026 NY Slip Op 02001, Second Dept 4-1-26

Practice Point: A plaintiff need not submit any evidence in opposition to a motion to dismiss the complaint. Here the judge should not have granted the motion on the ground the plaintiff did not comply with the court's directive to submit an affidavit from a physician.

April 1, 2026

CIVIL PROCEDURE, EVIDENCE, TRUSTS AND ESTATES.

SUMMARY JUDGMENT DISMISSING THE "UNDUE INFLUENCE" OBJECTION TO PROBATE OF A WILL SHOULD NOT HAVE BEEN GRANTED; CRITERIA EXPLAINED (SECOND DEPT).

The Second Department, reversing Surrogate's Court, noted that summary judgment is rarely appropriate where a party's undue influence on the decedent is alleged as an objection to probate of a will:

… Surrogate's Court should not have granted that branch of the petitioners' motion which was for summary judgment dismissing the objection based on undue influence on the part of Theodos. "To invalidate an instrument on the ground of undue influence, there must be evidence that the influence exerted amounted to a moral coercion that restrained independent action and destroyed free agency or that, by importunity that could not be resisted, constrained a person to do that which was against his or her free will and desire, but which he or she was unable to refuse or too weak to resist" … . "In general, the burden of proving undue influence rests with the party asserting its existence" … . "An inference of undue influence, requiring the beneficiary to explain the circumstances of the bequest, arises when a beneficiary under a will was in a confidential or fiduciary relationship with the testator and was involved in the drafting of the will" … . "The adequacy of the explanation presents a question of fact for the jury" … . The existence of a confidential relationship is also "ordinarily . . . a question of fact" … .

Here, the record reflects that Theodos was assisting in the management of the decedent's finances in the years leading up to the execution of the will and that certain provisions of the will were communicated to the decedent's attorney through Theodos. In addition, Theodos was named as one of the executors of the will and was also named as a beneficiary, receiving a bequest of $20,000. As such, an inference of undue influence arises … , and there remain triable issues of fact in that regard … . Matter of Gennarelli, 2026 NY Slip Op 01962, Second Dept 4-1-26

Practice Point: Consult this decision for an explanation of the burden of proof for an "undue influence" objection to probate and why summary judgment is usually inappropriate in this context.

April 1, 2026

CIVIL PROCEDURE, FORECLOSURE, JUDGES.

PLAINTIFF IN THIS FORECLOSURE ACTION DELAYED SIX YEARS BEFORE RESTORING THE ACTION TO THE ACTIVE CALENDAR AND FOUR YEARS BEFORE MOVING FOR LEAVE TO ENTER A DEFAULT JUDGMENT; INTEREST ON THE MORTGAGE DEBT SHOULD HAVE BEEN TOLLED FOR THOSE PERIODS (SECOND DEPT).

The Second Department, reversing Supreme Court, determined that interest on the mortgage debt in this foreclosure action should have been tolled because plaintiff failed to explain a six-year delay in restoring the action to the active calendar and its four-year-delay in moving for leave to enter a default judgment:

… Supreme Court should have granted the defendant's application to toll the accrual of interest on the note from November 1, 2011, to September 13, 2022. "'A foreclosure action is equitable in nature and triggers the equitable powers of the court'" … .. "'Once equity is invoked, the court's power is as broad as equity and justice require'" … . "'In an action of an equitable nature, the recovery of interest is within the court's discretion. The exercise of that discretion will be governed by the particular facts in each case, including any wrongful conduct by either party'" … .

Here, the plaintiff failed to explain its six-year delay in moving to restore the action to the active calendar, and further failed to explain its four-year delay in moving for leave to enter a default judgment against the defendant and for an order of reference after the action was restored to the active calendar. Under the circumstances of this case, since the defendant was prejudiced by these unexplained delays, during which time interest had been accruing, the interest on the note should have been tolled from November 1, 2011, to September 13, 2022 … . Greenpoint Mtge. Funding, Inc. v McFarlane, 2026 NY Slip Op 01945, Second Dept 4-1-26

Practice Point: Foreclosure actions are equitable in nature. Here undue delays by the plaintiff warranted tolling the accrual of interest for more than ten years.

April 1, 2026

CONSTITUTIONAL LAW, CRIMINAL LAW, EVIDENCE, JUDGES.

A MORE PROBING INQUIRY BY THE JUDGE WAS REQUIRED TO ENSURE THE MENTALLY DISABLED DEFENDANT UNDERSTOOD THE CONSEQUENCES OF HIS ALFORD PLEA, PLEA VACATED (THIRD DEPT).

The Third Department, reversing defendant's conviction by Alford plea, in a full-fledged opinion by Justice Reynolds Fitzgerald, determined a more probing inquiry by the judge was required to determine whether the plea was knowing and intelligent. Defendant had been found incompetent to stand trial twice before being found mentally competent to stand trial:

While there is no mandatory catechism required of a pleading defendant, there must be an affirmative showing on the record that the defendant waived his or her constitutional rights" … . "People with intellectual disabilities possess diminished capacities to understand and process information, to communicate, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others. . . . These traits render people with intellectual disabilities uniquely vulnerable to injustice within criminal proceedings. . . . [Therefore], a court must account for [a defendant's] diminished mental capacity in ensuring that any waiver of constitutional rights is knowing, intelligent and voluntary" … .

As defendant was twice determined to be incompetent to stand trial and had received four years of treatment before he was deemed competent to participate in his defense, County Court was aware of defendant's intellectual disabilities. Notwithstanding the determination that defendant was competent to stand trial, the third psychiatric evaluation report cast serious doubts on defendant's ability to enter a knowing and voluntary plea. The report indicates that on defendant's most recent cognitive assessment he "achieved a [f]ull-[s]cale IQ of 59, indicative of

abilities consistent with a [m]ild [i]ntellectual [d]isability." Additionally, he "achieved an [a]daptive [b]ehavior [c]omposite of 68, consistent with [the] upper end of the 'low' range of daily living skills." The psychologist further noted that defendant was "rather immature in his understanding of the severity of his charges and the chances that he could have significant consequences — such as jail time." More importantly, during the evaluation, defendant repeatedly alleged that his counsel had reassured him that he will not be going to jail and, in fact, "express[ed] strongly held beliefs that he will not be sent to jail due to his personal circumstances of having a disability and being young when the offenses were allegedly committed. These beliefs are likely related to his relative youth and mental health difficulties, several of which make it difficult for [defendant] to relate to others successfully, accept social norms and expectations, or respect interpersonal boundaries. These beliefs are unlikely to change with additional education or training."

Under these circumstances, "[a] more probing inquiry was warranted here to ensure that defendant understood the constitutional rights he was waiving, given his significant intellectual disability" … . As there is no affirmative showing on the record that defendant understood and voluntarily waived his constitutional rights when he entered his guilty plea, the judgment of County Court convicting defendant of manslaughter in the first degree and sentencing defendant thereon should be reversed, the plea vacated and the matter remitted for further proceedings … . People v Oldorff, 2026 NY Slip Op 02004, Third Dept 4-2-26

Practice Point: Where the defendant is mentally disabled and has previously been found incompetent to stand trial, before accepting a guilty plea, a probing inquiry by the judge is required to ensure the defendant understands the consequences.

April 2, 2026

CRIMINAL LAW, EVIDENCE.

ALTHOUGH THE CONVICTIONS WERE SUPPORTED BY LEGALLY SUFFICIENT EVIDENCE THE CONVICTIONS WERE AGAINST THE WEIGHT OF THE EVIDENCE (THIRD DEPT).

The Third Department, reversing defendant's convictions, determined the evidence was legally sufficient but the convictions were against the weight of the evidence:

People's accomplice theory supporting counts 2 through 7 against defendant was that the video surveillance footage depicted the gun being handed off before the shooting. However, the video footage is dark and pixelated, and the brother's body obscures part of the interaction, making it impossible to discern whether defendant and the codefendant exchanged a handgun — let alone anything — without resorting to speculation, which cannot be the basis for defendant's guilt beyond a reasonable doubt … . Nor is there anything in the record to suggest that this codefendant was aware that defendant had a gun, as none of the witnesses testified that he was present when defendant had displayed the gun at the mother's residence. To this point, the codefendant's lack of knowledge combined with the testimony that he threatened to return and shoot the victim creates the reasonable inference that he already had access to a gun of his own. Accordingly, given the lack of record support to establish beyond a reasonable doubt that defendant solicited, requested, commanded, importuned or intentionally aided another individual to possess and use a firearm in commission of the offenses charged under counts 2 through 7, we reverse these convictions as against the weight of the evidence … .

Relating to the weapon charges under counts 8 and 9, multiple witnesses testified that defendant was seen with a handgun only while at the mother's residence. However, since the evidence fails to demonstrate that the shooting was committed with the same gun, it so follows that the record also fails to establish beyond a reasonable doubt that defendant intended to use the gun he was seen with "unlawfully against another" as charged by the indictment (Penal Law § 265.03 [1] [b]). Further, although defendant did not possess the requisite gun permit and was outside of his home or place of business, the People cannot establish operability of

the handgun that defendant was seen with at the mother's residence before the shooting either … . People v Bowden, 2026 NY Slip Op 02003, Third Dept 4-2-26

Practice Point: Consult this decision for an example of convictions supported by legally sufficient evidence but against the weight of the evidence.

April 2, 2026

CRIMINAL LAW, EVIDENCE.

AN ANONYMOUS RADIO TRANSMISSION PROVIDED THE COLOR, MAKE, LOCATION AND LICENSE PLATE NUMBER OF A CAR WHICH WAS ALLEGED TO HAVE BEEN CARJACKED; THE POLICE OFFICERS FORCIBLY STOPPED THE CAR BEFORE VERIFYING THE LICENSE PLATE NUMBER; THE POLICE DID NOT HAVE "REASONABLE SUSPICION" AT THE TIME OF THE STOP (FIRST DEPT).

The First Department, reversing Supreme Court, determined that the forcible stop of the vehicle defendant was driving was not supported by "reasonable suspicion." The stop was based upon an anonymous radio transmission. The transmission provided the color, make, license plate number and location of a vehicle which had been carjacked. The police saw a vehicle matching the description in a parking lot but did not verify the license plate number until after the forcible stop:

… [T]he arresting officer testified that at approximately 12:30 a.m. on June 30, 2016, he and his partner received a radio transmission that a black Toyota with Pennsylvania license plate JCS1537 had been carjacked, the car was being tracked in real time, and its current location was near West 165th Street and Amsterdam Avenue in Manhattan. No evidence was presented as to the basis for the transmission or how the vehicle was being tracked. The officers responded to that location and saw a man standing by the trunk of a black Toyota with his hands by his waist in an open-air parking lot. A parking lot attendant confirmed that a black Toyota with Pennsylvania license plate had recently entered the lot. The officers then saw the black Toyota trying to exit. The officer stopped the car by drawing his gun, putting his hand up, and telling it to stop. The officer noticed that the Toyota

had no front plate, which was not required in Pennsylvania, and a parking receipt on the windshield for the same license plate number as the stolen vehicle. * * *

The police officer's testimony failed to provide any information that would have corroborated the anonymous radio transmission. Without knowing the source or nature of the tip with respect to either the carjacking report or the real-time tracking, the forcible stop was not justified by a reasonable suspicion … . The testimony that defendant was standing near the trunk of a black Toyota in a parking lot was not corroborative since such conduct was neither unlawful nor suspicious. The officer's testimony indicated that he only noticed the lack of the front license plate and parking receipt reflecting a matching license number with the carjacked vehicle after he had already forcibly stopped defendant. Thus, this corroborating information cannot justify the officer's actions … . People v Martinez-Jaquez, 2026 NY Slip Op 02045, First Dept 4-2-26

Practice Point: Consult this decision for insight into the corroboration required before the police can act on an anonymous tip.

April 2, 2026

CRIMINAL LAW, EVIDENCE.

SUPREME COURT'S GRANTING OF DEFENDANTS' SUPPRESSION MOTIONS REVERSED IN THIS TRAFFIC STOP CASE; THE REPORT THAT THE VEHICLE HAD BEEN INVOLVED IN AN ARMED ROBBERY THAT DAY AND THE DEFENDANTS' LACK OF COOPERATION AT THE TIME OF THE STOP JUSTIFIED BREAKING THE VEHICLE'S WINDOWS, REMOVING THE DEFENDANTS AND HANDCUFFING THEM; OBSERVING A FIREARM IN THE VEHICLE PROVIDED PROBABLE CAUSE TO ARREST (SECOND DEPT).

The Second Department, reversing Supreme Court's suppression of evidence seized during a traffic stop, over a dissent, determined the police had reasonable suspicion to stop the vehicle and exigent circumstances justified the search of a

defendant's fanny pack. The dissent disagreed about the legitimacy of the search of the fanny pack:

… [T]he police officers had reasonable suspicion to stop the vehicle based upon the fact that the description of the vehicle matched that of a vehicle that had been involved in an armed robbery earlier that day, and the vehicle's location had been detected by a license plate reader approximately five minutes prior to the stop … . Moreover, the actions of the police officers in drawing their guns and ordering the defendants out of the vehicle were justified under the circumstances as appropriate measures to ensure their safety … . Additionally, when the defendants failed to cooperate with the officers' instructions, the officers acted appropriately in breaking the vehicle's "excessive[ly] . . . tint[ed]" front windows for their own safety and then in removing the defendants from the vehicle and placing them in handcuffs … . The police thereafter had probable cause to arrest the defendants once the officer observed a firearm in plain view in the compartment of the driver's side door of the vehicle … .

… [T]he subsequent search of Rivera's fanny pack was justified as a search incident to a lawful arrest … . * * *

"Under the State Constitution, to justify a warrantless search incident to arrest, the People must satisfy two separate requirements" … . "The first imposes spatial and temporal limitations to ensure that the search is 'not significantly divorced in time or place from the arrest'" … . "The second, and equally important, predicate requires the People to demonstrate the presence of exigent circumstances" … . …

… The police were notified that a vehicle matching the description of the subject vehicle was involved earlier the same day in a gunpoint robbery in Brooklyn. … [A]fter the vehicle was boxed in by police vehicles, the occupants tried to escape the scene in the vehicle and continually refused the officer's directives to lower the heavily tinted car windows or exit the vehicle. People v David, 2026 NY Slip Op 01980, Second Dept 4-1-26

Practice Point: Here Supreme Court granted defendants' suppression motions and the Appellate Division reversed finding (1) the guns-drawn traffic stop, (2) the breaking of the vehicle's windows, (3) the removal of defendants from the vehicle,

(4) the handcuffing of the defendants, and (5) the arrest of the defendants upon observing a firearm in the vehicle, were constitutionally justified.

April 1, 2026

CRIMINAL LAW, EVIDENCE.

THE POLICE OBSERVED A GROUP OF PEOPLE CHASING THE DEFENDANT AND ESSENTIALLY JOINED IN WITHOUT ANY KNOWLEDGE OF THE UNDERLYING CIRCUMSTANCES; THE WEAPON SEIZED IN THE STREET STOP SHOULD HAVE BEEN SUPPRESSED (SECOND DEPT).

The Second Department, reversing defendant's criminal possession of a weapon conviction (after trial) and dismissing the indictment, determined the police who participated in the foot chase and street stop of the defendant did not have the requisite "reasonable suspicion." The police (in civilian clothes) saw a group of people chasing the defendant and essentially simply joined in the chase without any knowledge of the underlying circumstances. The seized firearm should have been suppressed:

… [T]he People failed to meet their burden of establishing the legality of the pursuit of the defendant, as the police lacked reasonable suspicion that the defendant had committed, was committing, or was about to commit a crime … . Neither Hain's [the officer's] observation of the defendant running away from a "group of civilians" chasing him, nor the female voice saying "that's him, he's getting away, grab him," without reference to any specific acts, were sufficient to confer reasonable suspicion that the defendant was engaged in criminal activity, as opposed to the defendant being the victim of criminal activity or having no connection to any criminal activity … . Hain acknowledged that "I wasn't sure exactly what was going on at the time," and that the group could have been chasing the defendant "for anything." Further, Hain's vague testimony that when the group caught up to the defendant, he observed the defendant and a female individual "engaged in some sort of physical altercation," which he described as "tussling, pulling back and forth at each other," was insufficient, absent any details, to satisfy

the People's burden of establishing reasonable suspicion that the defendant was engaged in criminal activity. Hain acknowledged that "I don't know if [the defendant] was defending himself," and he did not testify that the defendant ever struck the female individual or engaged in any conduct constituting an assault or other criminal activity. Therefore, it cannot be determined from Hain's testimony elicited at the hearing whether the defendant was merely trying to pull away from the female individual to continue running away after she and the group caught up to him.

Thus, Hain's observations did not constitute specific circumstances indicative of criminal activity so as to establish the reasonable suspicion necessary to lawfully pursue the defendant, even when coupled with the defendant's flight … . People v Alberto, 2026 NY Slip Op 01976, Second Dept 4-1-26

Practice Point: Here the police saw a group of people chasing the defendant and joined in without any knowledge of the underlying circumstances. Therefore the street stop was not justified by "reasonable suspicion."

April 1, 2026

EVIDENCE, LABOR LAW-CONSTRUCTION LAW.

PLAINTIFF'S TESTIMONY THAT THE UNSECURED LADDER MOVED SUDDENLY AND TILTED TO THE LEFT WARRANTED SUMMARY JUDGMENT ON THE LABOR LAW 240(1) CAUSE OF ACTION (SECOND DEPT).

The Second Department, reversing the Court of Claims, determined plaintiff in this ladder-fall case was entitled to summary judgment on the Labor Law 240(1) cause of action. Plaintiff testify the unsecured ladder moved suddenly and titled to the left:

… [T]he claimant demonstrated his prima facie entitlement to judgment as a matter of law on the issue of liability on the cause of action alleging a violation of Labor Law § 240(1). The claimant's deposition testimony established that the unsecured ladder moved suddenly and tilted to the left, causing him to fall … . In opposition,

the defendant failed to raise a triable issue of fact as to whether the claimant's own acts or omissions were the sole proximate cause of the accident … . Bista v State of New York, 2026 NY Slip Op 01936, Second Dept 4-1-26

Practice Point: A plaintiff's testimony that the ladder was unsecured and moved suddenly can be sufficient to warrant summary judgment in a Labor Law 240(1) action.

April 1, 2026

FREEDOM OF INFORMATION LAW (FOIL).

THE FOIL REQUEST FOR RESPONDENT'S RECORDS FOR ALL CERTIFIED POLICE OFFICERS COULD REVEAL THE IDENTITIES OF UNDERCOVER OFFICERS; THEREFORE THE REQUEST SHOULD HAVE BEEN DENIED; TWO-JUSTICE DISSENT (THIRD DEPT).

The Third Department, reversing Supreme Court, over a two-justice dissent, determined the reporter's FOIL request seeking records for all certified police officers from respondent's central registry of police officers and peace officers should not have been granted because the records include undercover officers:

The in camera submissions reveal that, unlike the state registry, at least one police agency omits from its own public payroll database certain information about certified officers working undercover or in sensitive assignments to protect their safety and preserve confidentiality; again, the police agency submits information about those same officers to the state registry. This distinction in how respondent and a local law enforcement agency account for undercover officers would be evident to one who compares the department's public payroll database to the list attributed by the state registry to that agency. Simply put, comparing the state registry to a local department's publicly disclosed payroll database could reveal names of undercover officers that appear on the state registry but not on their employer's redacted payroll database. Thus, respondent demonstrated that disclosure of the registry could endanger police officers who could be presumptively revealed by name as working undercover, thereby satisfying its burden to trigger the exemption under Public Officers Law § 87 (2) (f). Matter of

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