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Summarizing recent significant New York appellate cases

In a decision that illustrates a conflict amongst the Appellate Division departments, the First Department recently held that a defendant has the right to appeal a prehearing dismissal of a Domestic Violence Survivors Justice Act resentencing application, departing from the Third Department's prior holding otherwise. Let's take a look at that opinion and what else has been going on in the New York appellate courts over the last week.

FIRST DEPARTMENT

CRIMINAL LAW, DOMESTIC VIOLENCE SURVIVORS JUSTICE ACT

People v Croney, 2026 NY Slip Op 00630 (1st Dept Feb. 10, 2026)

Issue: May a defendant appeal to the Appellate Division from the prehearing dismissal of an application for resentencing under the DVSJA?

Facts: Defendant was convicted of first degree manslaughter for stabbing and killing a stranger when he was 20 years old, and was sentenced to an 18-year prison term. Six years after his conviction, "New York passed the DVSJA. The Act amended Penal Law § 60.12 by authorizing sentencing courts to impose alternative sentences for survivors of domestic violence" and, as Chief Judge Rowan Wilson noted in ***People v Brenda WW.* (2025 NY Slip Op 03643)**, was intended to "give incarcerated domestic violence survivors the opportunity to apply for resentencing to obtain relief from long, unfair prison sentences that overestimate their threat to public safety." These changes, the First Department explained, "were nevertheless circumscribed to situations where an incarcerated survivor was attempting to protect themselves from further violence or committed the crime as a result of an abuser's coercion." Thus, to grant an alternative sentence under the DVSJA, the trial judge must find that "(a) at the time of the instant offense, the defendant was a victim of domestic violence subjected to substantial physical, sexual or psychological abuse inflicted by a member of the same family or household as the defendant as such term is defined in [CPL 530.11(1)] . . . ; (b) such abuse was a significant contributing factor to the defendant's criminal behavior; (c) having regard for the nature and circumstances of the crime and the history, character and condition of the defendant, that a sentence of imprisonment pursuant to section 70.00, 70.02, 70.06 or subdivision two or three of section 70.71 of this Title would be unduly harsh."

After the DVSJA was adopted, defendant filed a resentencing application, claiming he had suffered physical and psychological abuse from his adoptive mother throughout his childhood and adolescence. His initial application included medical records from 2003–2004 and 2005, as well as records from 2016–2021 that postdated the offense. Significantly, his application stated that the abuse "did not end until he left the home of his adoptive mother" at age 17 and became homeless.

"[W]hile defendant's initial resentencing application was pending, [the First Department] decided *People v Williams* (198 AD3d 466 [1st Dept 2021], *lv denied* 37 NY3d 1165 [2022])," in which the Court "held that to qualify for resentencing under the DVSJA, the abuse or abusive relationship has to be ongoing at the time of the underlying offense." Using that decision, the People opposed defendant's initial application and he filed a "supplemental application alleging for the first time that his adoptive father had sexually abused him during childhood and attempted to sexually assault him again when he was around 17 or 18."

Supreme Court, New York County (Farber, J.) denied defendant's motion for resentencing without a hearing, holding that . . . defendant did not present any evidence of a temporal connection between the most recent altercation with his adoptive father and his criminal conduct with an unrelated individual. While recognizing the ongoing and nuanced nature of domestic violence cases, the court nonetheless determined that the DVSJA was meant to target a specific type of unjust sentencing—not to provide a mechanism for all victims of childhood trauma to escape responsibility for their actions. Carrying psychological scars from the past and acting under the present influence of ongoing abuse are inherently different. It is only the latter which serves to reduce culpability, and which potentially qualifies for relief under the DVSJA."

Defendant then appealed as of right from the prehearing dismissal of his DVSJA application. The People argued to the First Department that defendant lacked a right to appeal because although the DVSJA allows appeals after a hearing or from a resentencing, it does not authorize an appeal from a prehearing dismissal.

Holding: The Appellate Division, First Department rejected the People's argument and held that a prehearing dismissal of a DVSJA resentencing application was appealable as of right. The Court reasoned, "CPL 440.47(3) provides a catch-all provision that states: 'an appeal may be taken as of right in accordance with applicable provisions of this chapter: (a) from an order denying resentencing; or (b) from a new sentence imposed under this provision . . . .' Nothing in CPL 440.47(3)'s statutory text limits a defendant's right to appeal 'from an

order denying resentencing' whether made without a hearing or after a hearing." In so holding, the Court noted its disagreement with a decision of the Appellate Division, Third Department in ***People v Melissa OO*. (234 AD3d 101 [3d Dept 2024])**, in which that Court had held that the DVSJA did not provide any "express statutory right to appeal from an order dismissing an application for resentencing prior to a hearing." The First Department held, however, the statute does not contain that qualifier, but simply authorizes an appeal from an order denying a resentencing, regardless of whether a hearing is here. "Indeed, the First and Second Departments have repeatedly reviewed orders denying a DVSJA resentencing application without a hearing due to a defendant's failure to satisfy CPL 440.47(2)'s evidentiary requirements. The consistent treatment of these cases as appealable by both our Court and the Second Department supports our interpretation of the statute."

On the merits, the Court held that "Supreme Court providently denied defendant's application for resentencing because he failed to submit evidence sufficient to establish a temporal nexus between either the abuse he suffered or the related abusive relationship and the underlying offense. Defendant's initial application included various prison records and medical records, as well as an affidavit from his sister. These documents speak to the unquestionably horrible abuse that defendant's adoptive mother (not his father) perpetrated during his childhood. However, they do not corroborate any claim of abuse 'at the time of the offense.'" Nor did his allegations regarding his father—alleged abuse more than 10 months before the offense—satisfy the temporal requirement.

SECOND DEPARTMENT

REAL PROPERTY TAX LAW

Matter of Yeung v Assessor of the Vil. of Great Neck Estates, 2026 NY Slip Op 00784 (2d Dept Feb. 11, 2026)

Issue: Does an individual homeowner have standing to challenge a residential assessment ratio issued by the New York State Office of Real Property Tax Services within the procedural framework of a small claims assessment review proceeding?

Facts: Twenty-one residential property owners in Nassau County filed separate SCAR proceedings challenging their property tax assessments for the 2021–2022 tax year. The petitioners claimed their assessments were excessive and unequal under RPTL 730(1), supporting their claims with a ratio study based on local property sales that showed a residential assessment ratio ("RAR") of 94.83%, compared to the state's official RAR of 100%. "The residential assessment ratio is a specific class ratio used to determine the level of assessment for residential properties. It is a measurement of the overall ratio of the total assessed value of residential property in the municipality compared to the full market value. Equalization rates and RARs are calculated by the ORPTS and are made publically available."

The SCAR hearing officer denied all of the petitioners' applications in July 2022, holding that under RPTL 1218, individual taxpayers lack standing to challenge the state's equalization rates or class ratios. The petitioners then filed this Article 78 proceeding seeking to annul the hearing officer's determinations. Supreme Court dismissed the proceeding, holding "that an individual taxpayer does not have standing to challenge the RAR directly in a plenary or other action against the ORPTS. Similarly, the court held that a petitioner cannot be found to have standing to mount a collateral attack on the RAR in a SCAR proceeding."

Holding: The Appellate Division, Second Department reversed, holding that "RPTL 1218 does not deprive a homeowner of standing to challenge an RAR in a SCAR proceeding." The court explained that although RPTL 1218 limits challenges to state-created equalization rates to the "directly affected municipalities whose own rate or rates were established' by the State Board," and forecloses individual property owner challenges, those limits only apply to challenges to the equalization rates and their subsets like a RAR on a "county or statewide basis." They do not "preclude[e] an individual taxpayer from impeaching the RAR within the limited context of a SCAR proceeding. Such a challenge only serves to alter the measuring tool used in the SCAR hearing itself and has no broader probative or precedential value for other taxpayers, counties, municipalities, or even future SCAR hearings. These hearings are informal, and therefore, the evidence presented therein exists in a vacuum, independent of the broader statewide tax system."

Indeed, the court noted, SCAR proceedings, which are informal proceedings designed to do substantial justice and are not, under RPTL 732(2), limited to formal statutory provisions or rules of procedure or evidence, are intended to be an inexpensive alternative to a formal RPTL Article 7 challenge. "It is the opinion of this Court that to conduct the proceedings in a manner that does substantial justice between the parties, RPTL article 7, title 1-A must be interpreted as conferring homeowners with standing to challenge the RAR promulgated by the ORPTS or to mount a 'collateral attack' on the RAR by providing their own ratio study with an alternative ratio, within the limited context of that SCAR proceeding."

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