

# Decisions of Interest

JANUARY 8, 2024

## CRIMINAL

### FIRST DEPARTMENT

***People v Hoover*** | January 4, 2024

SENTENCE REDUCED | OTHERWISE AFFIRMED

The appellant appealed from a New York County Supreme Court judgment convicting him of 3<sup>rd</sup> degree burglary (3 counts) and imposing an aggregate 7 to 14-year sentence (two consecutive and one concurrent 3 ½ to 7-year terms). The First Department reduced the sentence to concurrent 2 to 4-year terms. The appellant pleaded guilty in exchange for a chance to participate in a drug treatment program. If successful, his plea would have been vacated and the charges dismissed. If he failed to complete treatment but was not rearrested, he would have received an aggregate 4 to 8-year sentence (two consecutive and one concurrent 2 to 4-year terms). There was no promise as to sentence if he was rearrested. However, at sentencing following the appellant's rearrest, the prosecutor incorrectly stated that the promised sentence was consecutive 3 ½ to 7-year terms and the court imposed sentence accordingly. The Office of the Appellate Defender (Karen Brill, of counsel) represented the appellant.

[People v Hoover \(2024 NY Slip Op 00032\)](#)

### TRIAL COURTS

***People v Bowman*** | 2024 WL 18586

CPL 710.30 | BODY CAM FOOTAGE | STATEMENTS PRECLUDED

Bowman moved to preclude oral statements he made to law enforcement. Webster Town Court granted the motion. The People gave defense counsel a two-page CPL 710.30 notice at arraignment, which indicated that the sum and substance of the noticed statements was “[s]ee any and all BWC [body-worn camera].” An attached narrative contained no statements attributed to Bowman. Weeks later, the defense indicated that it still had not received the BWC footage. Preclusion was warranted because Bowman was not given the BWC-recorded statements within 15 days of his arraignment. Even if the BWC footage been turned over within 15 days, preclusion would have been granted because the language “[s]ee any and all BWC” does not give the reader notice of the sum and substance of the statements at issue. The Monroe County Public Defender (Sara Gaylon, of counsel) represented Bowman.

[People v Bowman \(2024 NY Slip Op 50001\[U\]\)](#)

## ***People v Barrios*** | 2024 WL 16936

DISCOVERY | GARRETT INFORMATION | DISMISSED

Barrios moved to dismiss DWI and other related charges on speedy trial grounds based on the People’s failure to comply with their discovery obligations. Bronx County Criminal Court granted the motion. In their third supplemental COC, filed more than four months after Barrios’ arraignment, the People turned over *Garrett* civil lawsuit information concerning police officers involved in the case (see *People v Garrett*, 23 NY3d 878 [2014]). The People did not explain the delay in providing this material nor share any details about their efforts to obtain the information. As *Garrett* information is automatically discoverable under CPL 245.20 (1), the People’s silence about their due diligence rendered the supplemental COC and the prior COCs invalid. The Bronx Defenders (Grace Powell, of counsel) represented Barrios.

[People v Barrios \(2024 NY Slip Op 24001\)](#)

## ***People v Vincent*** | 2024 WL 26931

CPL 530.60 HEARING | NEW ARREST | DENIED

The People moved to revoke Vincent’s securing orders on two pending indictments and asked that bail be set based on a new felony arrest. Kings County Supreme Court denied the motion. The People submitted a new indictment for drug charges and the accompanying grand jury minutes, which included the testimony of Vincent and two police officers who executed a search warrant. The People also entered into evidence at grand jury a lab report purporting that the substance recovered during the search was cocaine. But the report was entered without a live witness pursuant to CPL 190.30. CPL 530.60 provides only one exception for hearsay—the testimony of a witness at grand jury, making the report inadmissible at the revocation hearing. Thus, the People failed to prove by clear and convincing evidence the weight of the substance that was recovered, let alone that it was a controlled substance. The Legal Aid Society of NYC (Lily Goetz and Jacob Segall, of counsel) represented Vincent.

[People v Vincent \(2024 NY Slip Op 24002\)](#)

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