

# Pro Se

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## SECOND CIRCUIT LOWERS BAR FOR RELIGIOUS CLAIMS

For decades, the federal district courts in New York have required incarcerated plaintiffs alleging that DOCCS officials and/or employees violated their First Amendment right practice their religion to make a threshold showing that the conduct of these agents “substantially burdened” their exercise of their religion. In November 2023, the Second Circuit abandoned this standard, holding in *Kravitz v. Purcell*, 87 F.4th 111 (2d Cir. 2023), that incarcerated plaintiffs alleging violations of their First Amendment religious rights need show only that DOCCS officials and/or employees *burdened* – as opposed to *substantially burdened* – the plaintiffs’ sincere religious beliefs.

In reaching this result, the Second Circuit reversed the district court’s decision granting summary judgment to the defendants. When a party moves for summary judgment, the court is required to base its decision on the facts the court finds to be undisputed.

Like the resolution of many legal issues, the path to this decision was long and winding. Before we go to the evolution of the standard applied to the First Amendment religious claims of incarcerated individuals, we will discuss the facts in *Kravitz*.

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**A Shout-Out to PLS Volunteers:  
Our New Recruits to Mission-Driven Advocacy**  
A Message from the Executive Director, Karen L. Murtagh, Esq.

Since opening our doors in 1976, PLS has always been known for its mission-driven advocacy. Our staff – be they lawyers, paralegals or support personnel – are renowned for their dedication to the PLS mission of providing high quality legal services to those who would otherwise go without – emphasizing purpose above personal gain that would attend different career choices.

That is what PLS is and who we at PLS are – indeed, our Board, clients and funders extol us for it.

What has become increasingly evident is that this same mentality and dedication to purpose exists in the hearts of a growing list of volunteers who give selflessly to the same “mission” as our full-time staff.

It is a heartening and important reminder of the good that people do, especially during times when the national indicators point elsewhere.

It is in that spirit that I’d like to dedicate this column to some pro bono notables:

Kudos and thanks to PLS alum Brad Rudin who not only pens a regular column for *Pro Se* entitled “What Did You Learn?” but also trains our staff on ethical issues of the day. His legal analysis of recent litigation and legislation is beyond compare.

Likewise, many thanks to PLS consultant Nick Phillips for his regular updates on immigration law in his *Pro Se* column entitled “Immigration Matters” and for his review of our appellate work in that area – giving of himself far beyond the four-squares of his consultantship.

Both Brad and Nick are experts in their fields who benefit us daily with their generosity and wealth of knowledge. Both would admit, I think, that the experience of working at PLS for many years was an incubator for the wisdom they now continue to share with us. So, while it can be said that they “cut their teeth” while at PLS on the expertise they now possess, they have paid it back many times over.

One could reasonably expect that Brad and Nick would share our mission-driven focus, having been full-time PLS staffers themselves. More surprising is the similar commitment of the attorneys participating in our PLS Pro Bono Program.

As you may recall, PLS' Pro Bono Program opened in 2010 as a fledgling project with the goal of leveraging resources by encouraging private attorneys to take on meritorious cases that PLS would otherwise have had to reject due to our limited resources. Over the past 13 years, the program has grown significantly and, thanks to the selfless dedication of hundreds of pro bono lawyers from firms throughout the state, countless numbers of incarcerated individuals have received stellar legal representation on cases involving their conditions of confinement. These are individuals who give of themselves far beyond any CLE or State Bar requirement.

In 2023 alone, PLS was able to secure the services of 78 attorneys across the state to provide pro bono representation to incarcerated individuals. And this past October, as we do every October, we honored those attorneys who have given of their talent, time and knowledge so selflessly at our annual Pro Bono Event. And this coming October we will be doing the same, taking time to say "Thank You" to all of those individuals who are doing the work not because they are getting paid, but because they believe in the mission of PLS – protecting and enforcing the civil and human rights of incarcerated individuals.

So, I say to all of our volunteers: "Thank You" for putting others before yourself. "Thank You" for believing in PLS' mission and working to ensure that we are able to fulfill that mission without regard to credit, compensation or adoration. "Thank You" for all that you are doing to make this world a better place.

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... *Continued from Page 1*

The Facts Supporting the Claim

Jay Kravitz practices Judaism. To Mr. Kravitz, Shavuot is the most important of the Jewish holidays. Shavuot **commemorates** (pays tribute to) the day that the Ten Commandments were revealed to Moses shortly after the Israelites escaped from

slavery in Egypt. Mr. Kravitz celebrates the holiday by praying and eating an evening meal on two nights with other Jews.

In 2014, while Mr. Kravitz was at Downstate C.F., he requested to have his name placed on the list of incarcerated individuals who would be participating in evening **congregate** (group) Shavuot meals on June 3 and 4.<sup>2</sup> On the evening of June 3, when Mr. Kravitz

arrived at the area where the Shavuot meal was to be distributed, correction officers threw paper bags containing peanut butter sandwiches, apple sauce, pudding and juice at the incarcerated participants. The officers did not allow the participants to go to the dining room to eat together, but laughed at them, made antisemitic remarks and ordered them to “go back to your cages.”

Mr. Kravitz returned to his cell where he ate his meal, prayed and reviewed religious texts. He also sent a letter to prison officials complaining about the officers’ conduct.

The next day, a chaplain told Mr. Kravitz that he would be permitted to observe the second night of the holiday. On the evening of June 4, officers escorted the participants to a dining room and allowed Mr. Kravitz to pray for thirty seconds, before they told Mr. Kravitz, “[We don’t] want to hear that. You need to stop and get eating the food.” When Mr. Kravitz again began to pray, the officer got in his face, hitting the table, and said, “Shut the fuck up. Get to eating. All of you’s now. I got things to do.”

In response, Mr. Kravitz skipped the blessing over the wine (grape juice, in prison) and said the blessing over the bread, after which the participants began to eat their meals. When they had been in the dining room for 20 minutes, the officers escorted back them back to their cells.

### **Proceedings Before the District Court**

In mid-November 2016, Mr. Kravitz filed a Section 1983 complaint against the two officers, McMahan and Wassweiler, who on June 4, had directly participated in the thwarting of his religious observance.<sup>3</sup>

After discovery was complete, the Defendants moved for summary judgment. Summary judgment will be granted when the undisputed facts show that the moving party is entitled to judgment in their favor.

Here, after dismissing the claims against the Defendants who were not personally involved in the incidents on June 3 and 4, the district court, found that Plaintiff Kravitz’s congregate Shavuot celebration was shortened but not denied. The undisputed facts, the court wrote, showed that the Plaintiff was able to gather with other Jewish individuals at Downstate C.F. to pray and eat a festive kosher meal. Based on this analysis, the court found, the Plaintiff was able to observe the holiday, “**albeit** [although] in a shortened and perhaps substandard manner.” Thus, the court concluded, “he suffered only ‘a *de minimis* [trivial] burden on his free exercise rights.” Having reached these conclusions, the court granted judgment in favor of Defendants McMahan and Wassweiler.

### **THE SECOND CIRCUIT’S ANALYSIS**

#### **The Origin of the Substantial Burden Test**

The Second Circuit began its analysis of Plaintiff Kravitz’s claim with a review of the Supreme Court caselaw discussing what an incarcerated plaintiff must show to win a claim that state officials violated their First Amendment rights to practice their religion. In *Turner v. Safley*, 482 U.S. 78, 79 (1987), the Supreme Court held that when a prison regulation impinges on the constitutional rights of incarcerated individuals, “the regulation is valid if it is reasonably related to a legitimate penological interests.” When applied in the context of First Amendment right to free exercise of religion, the Second Circuit, in *Young v. Coughlin*, 866 F.2d 567, 570 (2d Cir. 1989), noted that “[a] prisoner’s

first amendment right to free exercise of his religious beliefs may only be infringed to the extent that such infringement is reasonably related to legitimate penological interests.”

In *Kravitz*, the district court did not reach the issue of whether the Defendants’ actions were reasonably related to legitimate penological interests. Rather, the district court ruled that Plaintiff Kravitz’s claims failed because he had not shown that on June 4, the Defendants substantially burdened his religious beliefs.

### The Substantial Burden Test

The term substantial burden first appeared in a decision relating to a claim that state agents violated an individual’s religious right in the Supreme Court decision *Sherbert v. Verner*, 374 U.S. 398 (1963). In *Sherbert*, the Court considered whether that the denial of unemployment benefits to a Seventh Day Adventist who was fired from a job for refusing to work on Saturdays violated the Plaintiff’s First Amendment rights to free exercise of her religion.<sup>4</sup> The South Carolina Unemployment Bureau found that the Plaintiff was not entitled to benefits because she had “failed, without good cause to accept available and suitable work.” *Id.* at 401. In resolving the issue in the Plaintiff’s favor, the *Sherbert* Court held that “the denial of benefits amounted to a *substantial infringement* of the plaintiff’s free exercise rights and was not justified by a compelling state interest.” *Id.* at 407.<sup>5</sup>

While the *Sherbert* Court did not *condition* the determination that the Free Exercise clause had been violated on a “substantial infringement” of the Plaintiff’s rights – it merely found that in the *Sherbert* case, the Plaintiff’s rights had been substantially

infringed – subsequent decisions from courts applying the *Sherbert* decision identified the requirement as part of the *Sherbert* framework. *Kravitz*, at 14.

Under the substantial burden test, the Second Circuit stated, citing its decision in *Ford v. McGinnis*, 352 F.3d 582, 593 (2d Cir. 2003), the relevant question is whether engaging in the religious observance with respect to which the plaintiff alleges the defendants interfered “is considered central or important to [the plaintiff’s] practice of his religion.” *Id.* at 13-14 (internal quotation marks omitted). This test, the Court noted “requires courts to distinguish important religious beliefs from unimportant religious beliefs in order to decide whether a belief or practice is so peripheral to the plaintiff’s religion that any burden can be aptly characterized as constitutionally *de minimis*.” *Id.*, internal quotation marks omitted.

### Judicial Dissatisfaction with the Substantial Burden Test

In 1990, almost 30 years after the Court decided *Sherbert*, in *Employment Division v. Smith*, 494 U.S. 872, 879-880 (1990), the U.S. Supreme Court re-visited the substantial burden test, raising, but not definitively answering, the question of whether courts should have the role of distinguishing between substantial and unsubstantial burdens in the context of religious beliefs; that is, should the courts be deciding what is at heart, a personal, or only slightly less difficult to answer, theological question? In *Employment Bureau v. Smith*, the Court wrote, “[i]t is not within the judicial ken [range of understanding] to question the centrality of particular beliefs or practices to a faith, or the

validity of particular litigants' interpretations of those creeds.”

In the *Ford* decision, the Second Circuit similarly noted the courts are particularly ill suited to apply the “substantial burden” test because doing so raises the danger that courts will make conclusory judgments about the unimportance of the religious practice to the plaintiff rather than confront the often more difficult inquiries, including the sufficiency of the penological interest asserted to justify the burden. *Kravitz*, at 16 discussing *Ford*.

In spite of this concern, even after the *Ford* decision, when assessing allegations that state agencies violated an individual’s free exercise rights, the district courts within New York have continued to apply the substantial burden test and thereby, in many cases, eliminate the need to answer the question of whether, in the prison context, for example, DOCCS’s policy or regulation restricting an incarcerated individual’s right to practice their religion has a reasonable relationship to a legitimate penological interest.

In *Kravitz*, the Court concluded that this approach was incorrect. In order to end the need for courts to assess whether a particular restriction substantially burdened an incarcerated individual’s right to practice their religion, the question will be simply whether the restriction burdens the individual’s practice of their religion. This removes from the courts the responsibility of measuring the devotional import of various religious practices. *Kravitz*, at 17.

In reaching this result, the Second Circuit joined the Third, Fifth and Ninth Circuits and noted its disagreement with those Circuits that continue to use the test. Thus, in the future, when incarcerated individuals in

DOCCS custody sue DOCCS employees for violating their First Amendment right to practice their religion, “the plaintiff may carry the burden of proving a free exercise violation . . . by showing that the [employees have] burdened [their] sincere religious practice” pursuant to a policy or regulation that is not reasonably related to legitimate penological interests. *Kravitz*, at 23 and 24.

After the issuance of the *Kravitz* decision, in reviewing an incarcerated individual’s allegations that DOCCS employees violated their First Amendment right under the free exercise clause, the courts will look to the answers to the following questions:

1. Whether the practice asserted is religious in the individual’s scheme of beliefs;
2. Whether the challenged practice of the prison officials infringes upon the religious belief; and
3. Whether the challenged practice of the prison officials furthers . . . legitimate penological objectives.

*Kravitz*, at 24.

#### The Court’s Application of the New “Burden” Test

Turning back to Plaintiff *Kravitz*’s case, the Court observed that the district court had found that the Defendants’ conduct had only shortened but had not denied the Plaintiff’s celebration of Shavuot. The Second Circuit held that this finding satisfied the requirement that the Plaintiff show that his right to practice his religion had been burdened. *Kravitz* at 25. Based on this finding, the Court reversed the district court’s judgment granting summary judgment to

Defendants McMahon and Wassweiler and remanded the case for further proceedings consistent with this opinion.

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<sup>1</sup> The facts in this article pertaining to Plaintiff Kravitz's religious views and the practice of Judaism are taken from the Court's decision. Most of the facts, were taken from the Plaintiff's filings.

<sup>2</sup> While Mr. Kravitz's complaint alleged violations of his First Amendment rights at the Shavuot meals on both June 3 and 4, the Second Circuit affirmed the district court's dismissal of the claims relating to the June 3 meal. Thus, while this article discusses the facts that Plaintiff alleged as to both nights, the Court's holding relies only on the facts related to the events of June 4.

<sup>3</sup> Mr. Kravitz named various other DOCCS personnel as defendants. As the claims against the other defendants were dismissed and the dismissals were not relevant to the substantive issue addressed in the Court's decision, these claims are not discussed in this article.

<sup>4</sup> The "substantial burden" test was originally adopted in the analysis of free exercise claims brought by individuals against state agencies other than state departments of correction.

<sup>5</sup> The test used in cases involving state agencies other than departments of correction is whether the government has a compelling state interest that justifies placing a burden on the individual's right to practice their religion. The test used in cases involving state departments of correction is whether the regulation/policy/order at issue is reasonably

related to a **legitimate** (valid) penological interests.

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Jay Kravitz represented himself in this Section 1983 action. Mr. Kravitz was released from prison before his case was decided by the Second Circuit.

## NEWS & NOTES

### Seeking Information on Conviction Integrity Units

A Conviction Integrity Unit (sometimes called a Conviction Review Unit) is a program within a District Attorney's office that is designed to reinvestigate potential wrongful convictions. While these units are becoming increasingly popular, little is known about how effective they are in exonerating innocent people.

Have you ever applied to a Conviction Integrity or Conviction Review Unit in New York State? Or do you know somebody who has? If you have applied to one of these units, we'd like to hear about your experience. Let us know how it went.

Send a letter to Columbia Journalism School, 2950 Broadway, Pulitzer Hall, New York, NY 10027, with attention to Columbia Journalism Investigations, or email us at: [NYConvictionReview@gmail.com](mailto:NYConvictionReview@gmail.com).

## Too Much Property? Please Do Not Send Excess Property to PLS!

It does not happen often, but occasionally, when people in DOCCS custody are told they have too much property and must destroy the excess or send it to someone who is not in DOCCS custody, they send their excess property to PLS. This creates problems for PLS because we are not set up to store property. We neither have space nor the facilities to store property.

When PLS receives property from incarcerated individuals, we advise the sender that we will hold it for a month during which period the sender may have someone pick up the property. If no one has picked up the property within a month, we destroy the property.

### PREP SPOTLIGHT

Jill Marie Nolan

PLS' PREP program is a therapy-based pre-release and re-entry program. Our primary purpose is to help individuals conduct the personal work necessary to avoid returning to prison, achieve true independence, and reach their maximum potential. Participants graduate from PREP three years after they return home. You are eligible to apply to PREP if you are within 6-18 months of your maximum release date, do not require post-release supervision, are not required to register as a sex offender, and are returning to one of the five (5) boroughs of New York City or to one of the following counties: Dutchess, Erie, Genesee, Monroe, Niagara, Orange, Orleans, Putnam, Rockland, Sullivan, Ulster,

Westchester or Wyoming. Participants must be motivated to do the work necessary to be their best self, achieve their goals, and be a positive member of their community. If you meet these requirements and did not receive an application, you can request one by writing to:

*Jill Marie Nolan, LCSW*

*PREP Coordinator*

*Prisoners' Legal Services of New York*

*10 Little Britain Road, Suite 204*

*Newburgh, NY 12550*

The PREP spotlight shines on **NYC Books Through Bars**, an all-volunteer group that sends free literature to incarcerated individuals across the country. They have a large selection of both fiction and non-fiction books in a variety of subjects/genres. In your request letter, please include your name, DIN, and facility address and specify which subjects/genres most interest you. Books typically arrive within 4-8 weeks. Send your request letter to:

NYC Books Through Bars

C/O Bluestocking Bookstore

116 Suffolk Street

New York, NY 10002



## PRO SE VICTORIES!

***Matter of Jessie Barnes v. Shelley Mallozzi, Director of Inmate Grievance Program, Index No. 2020-567 (Sup. Ct. Franklin Co. Oct. 10, 2023).*** On February 6, 2020, according to Jessie Barnes' Article 78 Petition, in spite of Mr. Barnes' objections, the prison officials at Upstate C.F. placed Mr. Barnes in the Confinement Program Plan (CPP) at Upstate C.F. The CPP is a six-month voluntary program for incarcerated individuals who

have accrued more than six months of SHU confinement and do not qualify for a SHU alternative Program. The CPP Participation Contract specifically provides that it is a voluntary program designed to provide an opportunity for willing participants.

After his involuntary placement in CPP, Mr. Barnes filed three grievances, dated March 30, June 14 and November 14, 2020. Each grievance complained the Mr. Barnes had not volunteered to participate in the program and wanted to end his involvement in it. The Central Office Review Committee determined that the first two grievances had been properly denied because:

- Mr. Barnes enrolled voluntarily;
- Mr. Barnes verbally agreed to participate in CPP but refused to sign the consent form; and
- Mr. Barnes' transfer to CPP was based on the length of his SHU time and approval of the Assistant Commission of Special Housing.

On April 21, 2021, CORC found that the third grievance was moot because Mr. Barnes had already been removed from CPP on December 24, 2020 and had been transferred to another prison on March 30, 2021.

In October 2020, while Mr. Barnes was still involuntarily in the CPP, he filed an Article 78 proceeding alleging that the grievance decisions were arbitrary and capricious. The Respondents – the Director of the Incarcerated grievance Program and the Upstate Superintendent – argued that the Incarcerated Grievance Program decisions had a rational basis and that the Respondents had not violated DOCCS' policies by enrolling Mr. Barnes in the CPP without a signed contract and in failing to recognized the futility of enrolling and not releasing an unwilling participant.

In fact, the Court found, the Respondents had enrolled Mr. Barnes in CPP for 10 months – 4 more than the stated length of the program – without any explanation despite his “obvious non-participation.” Further, the Court continued, the Respondents never gave a legitimate reason for refusing to release Mr. Barnes from this “voluntary” program, despite his documented repeated requests to leave.

Based on these findings, the Court ordered the grievance decisions annulled and vacated.

***Julio Nova v. Ms. C. Rocker, et al., Case 6:23-cv-06170-FPG, Document 15 (W.D.N.Y. Sept. 26, 2023).*** In 2023, Julio Nova filed a Section 1983 complaint alleging, among other claims, that in 2020, when he was at Elmira C.F., a correction officer identified in a grievance that he filed, assaulted Mr. Novo in

his cell. The complaint further alleges that a sergeant was present during this assault but did nothing to stop it. During the assault, Mr. Nova alleges, the Defendant punched and kicked him and as a result there was urine in his blood for a week and headaches for several days.

The district court found that Mr. Nova's allegations against the officer who assaulted him in retaliation for the grievance that Mr. Nova had filed against him and the sergeant who failed to intervene to prevent or stop the assault, warranted service of the complaint and ordered these two Defendants to file answers.

The complaint also alleges that in August 2020, after he was assaulted by another incarcerated individual, Julio Nova was served with a misbehavior report relating to the incident. Mr. Nova asked his employee assistant (EA) to interview the incarcerated individuals who were in position to see the assault to determine whether any of these individuals had seen anything related to the incident. Based on the EA's performance, Mr. Nova alleged that his right to assistance had been violated.

The hearing officer found Mr. Nova guilty of four of the six charges and sentenced him to 180 days. Mr. Nova challenged the hearing in an Article 78. The Article 78 court found that Mr. Nova's right to employee assistance had been violated and ordered the hearing reversed and expunged.

The district court found that Mr. Nova's allegations against the employee assistant and the hearing officer were sufficient to warrant service on both of these Defendants and ordered these Defendants to file answers.

***Pro Se Victories!** features summaries of successful pro se administrative advocacy and unreported pro se litigation and. In this way, we recognize the contribution of pro se jail house litigants. We hope that this feature will encourage our readers to look to the courts for assistance in resolving their conflicts with DOCCS. The editors choose which unreported decisions to feature from the decisions that our readers send us. Where the number of decisions submitted exceeds the amount of available space, the editors make the difficult decisions as to which decisions to mention. Please submit copies of your decisions as Pro Se does not have the staff to return your submissions.*

## STATE COURT DECISIONS

### Disciplinary and Administrative Segregation

## Constitutional Challenge to Rule Prohibiting Abusive Language Fails

In *Matter of Blanchard v. Annucci*, 221 A.D.3d 1531 (4<sup>th</sup> Dep't 2023), the Court reviewed a Tier II hearing at which the Petitioner had been found guilty of refusing a direct order, interfering with an employee, and harassment. The Respondent acknowledged that the determination that the Petitioner had interfered with an employee was not supported by substantial evidence and ordered that charge dismissed and all references to it expunged from the Petitioner's prison records. The Court, citing *Matter of Nicholas v. Herbert*, 195 A.D.2d 1083, 1084 (4<sup>th</sup> Dep't 1993), did not however, agree with Petitioner Blanchard that the

determination of guilt for the violation of rule prohibiting harassment, including “using insolent, abusive or obscene language . . .” see, 7 NYCRR 270.2(B)(8)(ii), violated Mr. Blanchard’s First Amendment right to free speech.

Because the Court did not discuss the *Nicholas* decision, it useful to review that decision as it sets forth the standard by which the state courts determine whether a Departmental rule or policy violates an incarcerated individual’s First Amendment right to freedom of speech.

Jason Nicholas was charged with harassing a correction officer. The hearing officer found Mr. Nicholas guilty of the charge based on the charging officer’s representations in the misbehavior report. After the determination of guilt was affirmed on administrative appeal, Mr. Nicholas filed an Article 78 proceeding, raising this argument, among others: The rule prohibiting verbal harassment is invalid because such speech is constitutionally protected.

The *Nicholas* Court found that there was no merit to the Petitioner’s argument that the prohibition on verbal harassment of employees, “including the use of insolent, abusive and/or obscene language,” prohibits constitutionally protected expression. In reaching this conclusion, the Court, citing *Turner v. Safley*, 482 U.S. 78, 89-91 (1987), noted that there are four factors which must be considered in determining the reasonableness of an agency’s regulation:

1. Is there a rational relationship between the regulation and the legitimate governmental interest asserted by the agency?
2. Do incarcerated individuals have an alternative (different) means of exercising the constitutional right at issue?
3. What impact would accommodation of the asserted constitutional right have on guards and other incarcerated individuals?
4. Are there ready alternatives that accommodate the claimed right and satisfy the valid institutional interests?

In setting forth these four factors, the Court, citing *O’Lone v. Estate of Shabazz*, 482 U.S. 342 (1987), noted that rule prohibiting verbal harassment of officers must be judged by the *reasonableness* standard, as opposed to the more restrictive standard – the least restrictive alternative – ordinarily applied to alleged infringement of fundamental constitutional rights.

Presumably after reviewing the Respondent’s arguments supporting the need for the regulation and the absence of alternatives, the Court concluded: “Prisons cannot permit inmates to direct insolent and abusive language toward correction officers or the authority of such officers would be seriously impaired and undermined.” Thus, the Court held, the challenged rule “is not invalid as prohibiting constitutionally protected expression.

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Charles Blanchard represented himself in this Article 78 proceeding.

## Sentence & Jail Time

### Court Reduces Sentence Pursuant to the DVSJA

In March 2017, Defendant Liz L. killed the person with whom she lived. She pleaded guilty to manslaughter in the first degree, and was sentenced to a 10-year determinate term followed by 5 years of post-release supervision. Several years later, Ms. L. requested permission to file an application for a Domestic Violence Survivor’s Justice Act (DVSJA) sentence reduction. See, Criminal Procedure Law (CPL) §440.47 and Penal Law (PL) §60.12.

The DVSJA was enacted in 2021. “In recognition of the profound and pervasive trauma suffered by victims of substantial abuse,” the Court wrote, “[the DVSJA] permits courts to impose more lenient sentences in certain cases where a victim of domestic violence commits crimes against his or her abuser or as a result of that abuse. *People v. Liz L.*, 221 A.D.3d 1288, 1289 (3d Dep’t 2023). The justification for, under certain circumstances, reducing the sentences imposed on victims of domestic violence is the need to “align the realities – that 93% of women convicted of killing an intimate partner had been abused by such partner in the past – with compassion assistance and appropriate justice . . .” *Id.*

A defendant who meets the threshold eligibility requirements may apply for resentencing under the DVSJA. Note that while the justification of the law focuses on the abuse of women, the law applies equally

to all victims of domestic violence – regardless of their biological sex designation or their gender identity – who otherwise meet the eligibility criteria

Pursuant to PL §60.12, a court may apply an alternative sentencing scheme where it determines, following a hearing, 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;
- b. Such abuse was a significant contributing factor to the defendant’s criminal behavior; and
- 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 [Penal Law §§70.00, 70.02, 70.06, or 70.71(2) and (3)] would be unduly harsh.

*People v. Liz L.*, at 1289-1290.

After reviewing the lower court’s decision, the Third Department found that the County Court had misapplied the DVSJA and erred in denying Ms. L.’s application for resentencing.

Specifically, the Court noted, in addressing the first criterion – “at the time of the instant offense, the defendant was a victim of domestic violence subject to substantial physical, sexual or psychological abuse inflicted by a member of the same family or household” – while the lower court found that the Defendant had been a victim of domestic violence imposed by her live-in partner, the lower court denied the re-

sentencing request because “no evidence was presented that, at the time of [the partner’s] death, he and . . . the defendant were involved in an episode of domestic violence.” *Id.* at 1290.

The Court rejected this narrow interpretation of the DVSJA’s language, finding that the lower court misapplied the language of P.L. §60.12(1)(a) by “requiring that the abuse occur ‘at the time of the instant offense.’ ” That interpretation, the Court found, “would inherently invoke the defenses of duress or justification, however the legislative history makes it clear that the DVSJA was enacted to address shortfalls in such defenses.” *Id.*

In *Liz L.*, the Court found that “nothing in the DVSJA requires a finding that the abuse and the offense occur **contemporaneously** [at the same time], and to hold otherwise, would be **tantamount to** [almost the same thing as] requiring that a defendant make a showing akin to a justification defense in order to be entitled to its **ameliorative** [remedial] sentencing scheme, which is **inapposite to** [out of keeping with] the legislative history. *Id.*

With respect to the first prong of the test, the Court found that “the record evidence amply demonstrates that defendant was subjected to years of substantial abuse by [her partner] and that this abuse had been ongoing up to and including the underlying incident. *Id.* at 1290-1291.

As to the second prong, – whether the abuse was a significant contributing factor to the defendant’s offense – the Court noted that the lower court had found the abuse to be a contributing factor, but did not discuss whether it was a *significant* contributing

factor, as required by the statute. Nor did the lower court give a factual basis for its finding that abuse was a contributing factor. Nonetheless, the Appellate Court stated that the record revealed that the Defendant, at the DVSJA sentence reduction hearing, testified that incident occurred after she woke her partner up and “he became ‘aggressive, . . . arguing . . . , screaming and pushing,’ and ‘cornered’ her in a room. At that time, defendant felt ‘like [she] was going to lose [her] life’ and that she ‘had no escape.’ ” *Id.* at 1291.

Until she restored to her normal consciousness and saw the victim injured and bleeding, Ms. L. could not remember anything after being cornered. When she returned to her normal consciousness and saw the victim, Ms. L. called the police. According to a police report made with respect to an earlier incident, the victim had pulled a knife on the Defendant and her sister, threatening to stab the sister if she intervened, as he dragged the Defendant around the room by her hair. The Appellate Court, citing PL §60.12(1)(b) held that this evidence showed that the abuse that the Defendant suffered was a significant contributing factor to her offense. *Id.*

As for the third prong (PL § 60.12(1)(c) ), the Appellate Court noted that the County Court had found that a sentence “within the statutory guidelines was appropriate.” *Id.* This finding, the Appellate Court held, was improperly based solely upon its belief that the Defendant’s status as a victim of domestic violence has already been factored into her plea, as well as the lower court’s comparison of her sentence with her potential sentencing exposure. These findings, the Court held, are not relevant to the application of the DVSJA. *Id.*

In reaching this result, the Appellate Court noted, it is not sufficient to “weigh[] the merits of the original sentence and plea agreement in light of a defendant’s domestic violence history.” *Id.* Rather, the Court wrote, under the DVSJA, PL 60.12(1)(c), the determination “as to whether the standard sentence would be ‘unduly harsh’ is to be made in consideration of the ‘nature and circumstances of the crime and the history, character and condition of the defendant.” *Id.* at 1291-1292 Here, while the lower court noted the Defendant’s age, lack of criminal history and the fact that she is the mother of two children, the lower court failed to discuss these circumstances or the weight that they should be given in considering her resentencing application. *Id.*

Examining those factors as they are relevant to the DVSJA, the Court found that the Defendant “had been subjected to years of ongoing and substantial physical and psychological abuse by [her partner] including in the presence of their children, up to the date of the incident.” *Id.* Police records showed that the abuse had resulted in various injuries to the Defendant, including lacerations, bruises and other physical harm for which the Defendant sought medical attention.

The Defendant also showed through her testimony that the abuse she experienced from her partner prevented her from long term employment – her partner would come to her workplaces to harass her – caused her to quit her jobs and interfered with her relationships with friends and family. Further, the Defendant had served over six years of her sentence, above the maximum allowed by the DVSJA for her crime of conviction, a class B felony.

Based on this analysis, the Appellate Court found that the County Court should have granted the application for re-sentencing under the DVSJA.

Because the Defendant had served beyond the maximum sentence which could be imposed for a Class B felony under the DVSJA, rather than remand the case and have the County Court determine the appropriate sentence, the Appellate Court modified the judgment to a 5-year determinate term to be followed by 2½ years of post-release supervision. The Court also held that the time that the Defendant spent in prison beyond the 5-year determinate term should be credited to her period of post-release supervision.

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Karin Portlock, Gibson, Dunn & Crutcher LLP, New York City, Michael T. Baker, Public Defender, Binghamton, and Brooklyn Law School Legal Services Corp., Brooklyn, represented Liz L. in this CPL 440.47 motion for resentencing.

## **Court Affirms Denial of DVSJA Motion to Reduce Sentence**

In 2015, Brandon Fischer was charged with among lesser charges, assault in the first and second degrees based on allegations that she had broken her mother’s arm and had attacked her father with a baseball bat, resulting in the loss of vision in one of his eyes. Ms. Fisher pleaded guilty to all charges relating to the assaults on her parents,<sup>1</sup> and was sentenced to a 10-year determinate term for the top count and to lesser concurrent terms for the less serious offenses.

In 2021, Ms. Fisher filed a motion for resentencing pursuant to Penal Law (PL) §60.12, also known as the Domestic Violence Survivors Justice Act (DVSJA), and Criminal Procedure Law (CPL) §440.47, the section of the CPL that permits resentencing. The trial court, denied the motion and Ms. Fisher appealed.

In *People v. Fisher*, 221 A.D.3d 1195 (3d Dep't 2023), the Court began its review of the lower court's decision by noting that, "The DVSJA, without diminishing the gravity of an offense, permits courts to impose alternative less severe sentences in certain cases involving defendants who are victims of domestic violence." *Id.* at 1196.

When certain criteria are met, the law allows a sentencing court to resentence a domestic violence survivor whose sexual, psychological or physical abuse contributed to his or her conviction. CPL §440.47 allows a court to reduce the sentence when the court determines:

1. The defendant was the victim of an abusive relationship at the time of the offence;
2. Abuse was a significant contributing factor in the commission of the offense; and
3. Considering the circumstances of the crime and the character of the defendant, a sentence of imprisonment pursuant to Penal Law §§70.02, 70.06 or 70.71 (2) or (3) would be unduly harsh.

The materials submitted to the court by Ms. Fisher corroborate her allegations that she "had been subjected to substantial physical and psychological abuse by her father." *Id.* at

1197. Nonetheless, the Court continued, the Defendant's affidavit stated that the abuse had ended when she became a teenager and did not state that either parent was physically abusing her around the time of the assaults. Further, sworn statements provided by the Defendant's sister and a close friend indicated the assaults were driven by anger over the Defendant's father's extra marital affairs rather than anger over the abuse.

Based on the materials before it, the Court found that the "defendant had failed to show that she was subjected to substantial abuse 'at the time of the instant offense' or that the abuse she had previously suffered was a 'significant contributing factor' to her criminal behavior."

"Although nothing in the DVSJA requires a finding that the abuse and the offense occur **contemporaneously** [at the same time]," the Court continued, "the statutory language requiring that the abuse occur 'at the time of the instant offense' would be rendered meaningless unless it created a requirement that a temporal nexus exist between the abuse and the offense."

Finally, the Court concluded, "in view of the horrific nature of the circumstances surrounding defendant's conduct, despite her health conditions and history of abuse, the sentence of imprisonment, which was within the standard statutory sentencing range, is not 'unduly harsh.'"

For these reasons, the Court affirmed the lower court's decision to deny the application for a sentence reduction.

<sup>1</sup> Charges arising from Ms. Fisher’s pre-trial confinement were also disposed of at this time.

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Theresa M. Suozzi, Saratoga Springs, represented Brandon Fisher in this CPL §440.47 motion for resentencing.

## Miscellaneous

### Sentence for Promoting Prison Contraband 1 May Include a Fine

In *People v. Daquan Jones*, 221 A.D.3d 1139 (3d Dep’t 2023), the Defendant pleaded guilty to a reduced charge of attempted promotion of prison contraband in the first degree. According to the Court, the terms of the plea deal between Mr. Jones and the Clinton County District Attorney included notice that a fine of up to \$5,000.00 could be imposed and a waiver of appeal. In accordance with the agreement, the Court imposed an indeterminate sentence of 1½ to 3 years and a fine of \$2,000.00.

Although the waiver of appeal was a condition of the plea deal, the Court found that the waiver was invalid. A written waiver, the Court wrote, which the sentencing court had “failed to ascertain defendant had read, understood or reviewed with counsel, was overbroad in that it purported to present a bar to all post-conviction remedies, an error that was reinforced during the plea allocution.” The Court went on to find that the court’s limited questioning of the

Defendant “was insufficient to remedy the defect in the written waiver so as to support the conclusion that the defendant’s waiver of appeal was knowing, voluntary and intelligent.”

Having found the waiver of appeal to be invalid, the Court went on to find that it could therefore consider a challenge to the find based on the Defendant’s argument that it was unduly harsh and severe.

Here, the Court had no problem finding that where the Defendant’s conduct endangered the safety of a correctional facility, the amount of the fine – which the Court found to be lawful – was not unduly harsh or severe. For this reason, the Court refused to reduce the fine in the interest of justice.

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Edward Graves, Esq., Indian Lake, NY represented Daquan Jones in this criminal appeal.

## IMMIGRATION MATTERS

### Nicholas Phillips

This issue’s column will focus on *Matter of Aguilar-Hernandez*, 28 I. & N. Dec. 774 (BIA 2024), a precedential decision by the Board of Immigration Appeals (“the Board”) which clarifies the procedural requirements for initiating removal proceedings—commonly known as deportation proceedings—against noncitizens who are currently residing in the United States.

*Matter of Aguilar-Hernandez* focuses on a document called a “Notice to Appear” or “NTA.” To initiate removal proceedings (also known as deportation proceedings) against a



noncitizen, the Department of Homeland Security (“DHS”) must issue an NTA and file it with the appropriate immigration court after serving a copy on the noncitizen. 8 C.F.R. §1003.14(a); 8 U.S.C. §1229(a). The Immigration and Nationality Act (“INA”) requires that an NTA contain specific information so that the noncitizen is adequately apprised of the government’s case. For example, an NTA must specify “[t]he legal authority under which the proceedings are conducted;” “[t]he acts or conduct alleged to be in violation of law;” and “[t]he charges against the alien and the statutory provisions alleged to have been violated.” 8 U.S.C. § 1229(a)(1)(B)–(D).

One critical piece of information that must be included in an NTA, but which has historically often been overlooked, is “[t]he time and place at which the proceedings will be held” – that is, the time and place of the immigration court hearing. 8 U.S.C. §1229(a)(1)(G)(i). Such a requirement makes **eminent** (outstanding) practical sense because, as the Supreme Court has stated, “[t]he right to a hearing is meaningless without notice.” *Walker v. City of Hutchinson, Kan.*, 352 U.S. 112, 115 (1956). The notice requirement is particularly important in the immigration court context because a noncitizen who fails to attend an immigration court hearing will be ordered removed *in absentia*, and can thereafter be summarily deported, with only limited mechanisms available to rescind the order of removal.

However, the notice requirement posed a logistical problem to the federal government: since DHS is a separate federal agency to the immigration court system, which is run by the Department of Justice, how would DHS be able to know the court date *before* issuing the NTA and filing it with court? The government

initially solved this problem by developing a system which allowed DHS to access the immigration court calendar and thereby figure out the next available date for a hearing. But at some point, DHS abandoned this system and decided to simply state on the NTA that the hearing would take place at a time and place “to be determined.” Then, after the NTA was filed, the immigration court would send a notice to the noncitizen informing them of the time and place of the hearing. In this manner, the information required by the INA was split into two documents, with some information supplied by the NTA and some by the immigration court hearing notice.

Perhaps unsurprisingly, this two-pronged system resulted in much confusion and many missed immigration court hearings. Extensive litigation ensued, which ultimately resulted in two Supreme Court cases: *Pereira v. Sessions*, 138 S. Ct. 2105 (2018), and *Niz-Chavez v. Garland*, 141 S. Ct. 1474 (2021). In *Pereira*, the Supreme Court rejected the two-step procedure in the context of cancellation of removal, a type of relief available in immigration court. To qualify for cancellation of removal, a noncitizen must have been continuously physically present in the United States for ten years prior to filing the application. Under the “stop-time” rule, service of an NTA upon the noncitizen terminated that period of continuous presence. In *Pereira*, the noncitizen was served an NTA which did not contain the time and place of the hearing, but the immigration judge found that the NTA nonetheless terminated the noncitizen’s physical presence. The Supreme Court disagreed, holding that “[a] notice that does not inform a noncitizen when and where to appear for removal proceedings is not a ‘notice to appear’ under [the INA] and

therefore does not trigger the stop-time rule.” *Pereira*, 138 S. Ct. at 2110.

While *Pereira* ostensibly dealt only with the stop-time rule, the decision raised an important question: if an NTA is a fundamental charging document, does a defective NTA mean that the immigration court never had jurisdiction to conduct removal proceedings in the first place? The Board rejected this jurisdictional challenge in *Matter of Bermudez-Cota*, 27 I. & N. Dec. 441 (BIA 2018), finding that a defective NTA does *not* deprive an immigration court of jurisdiction so long as that the noncitizen is served with a hearing notice afterwards.

But in *Niz-Chavez*, the Supreme Court rejected this two-step procedure and affirmed that the information required in an NTA cannot be issued by installment in multiple documents. *Niz-Chavez* again concerned the stop-time rule. In the underlying removal case, the noncitizen was served with a defective NTA and was thereafter sent a hearing notice. The agency found that while the defective NTA did not trigger the stop-time rule under *Pereira*, the subsequent hearing notice cured the NTA’s defect and stopped the noncitizen’s continuous physical presence. The Supreme Court disagreed, concluding that “the law’s terms ensure that, when the federal government seeks a procedural advantage against an individual, it will at least supply him with a single and reasonably comprehensive statement of the nature of the proceedings against him.” 141 S. Ct. at 1486.

*Niz-Chavez* led many noncitizens to renew the jurisdictional challenges foreclosed by *Bermudez-Cota*. In *Matter of Fernandes*, 28 I. & N. Dec. 605 (BIA 2022), the Board again rejected these jurisdictional arguments and concluded that 8 U.S.C. § 1229(a)(1)—the

statutory provision setting forth the procedural requirements for an NTA—constitutes a *claim-processing* rule, such that an immigration court has jurisdiction to hear a removal case even if the NTA is defective. But the Board specified that 8 U.S.C. § 1229(a)(1) is a *mandatory* rule, and so if a noncitizen timely objects to the sufficiency of an NTA, the immigration judge should consider that objection regardless of whether the noncitizen was prejudiced by the NTA’s defects. However, the Board rejected the claim that termination of removal proceedings was required in these circumstances and instead concluded that DHS should be given the opportunity to remedy a defective NTA. While the Board noted that “[t]he precise contours of permissible remedies are not before us at this time,” the Board observed that “DHS may decide it is best to request dismissal without prejudice and file a new [NTA].” 28 I. & N. Dec. at 616.

Faced with a mountain of pending cases, DHS evidently decided that it lacked the time and resources to dismiss every case based on a defective NTA, and so DHS came up with a shortcut: it would try to cure a defective NTA by filing a Form I-261, a document used by DHS to add factual allegations and charges to an NTA. *Matter of Aguilar-Hernandez* rejected this proposed solution, finding that federal regulations “unambiguously state[] that a Form I-261 can only be used to alter two aspects of the [NTA]: (1) to add or substitute charges; or (2) to add or substitute factual allegations.” 28 I. & N. Dec. at 777. But the Board again declined to specify what, if anything, *would* remedy a defective NTA. It therefore remains to be seen whether *Matter of Aguilar-Hernandez* constitutes the final installment of this convoluted legal saga.

## WHAT DID YOU LEARN?

**Brad Rudin**

**1. For incarcerated plaintiffs to prevail in a claim alleging state interference with their right to freely practice their religion, plaintiffs must allege that prison officials:**

- a. imposed a *de minimus* (trivial) burden on the free exercise of religion.
- b. imposed a substantial burden on the free exercise of religion.
- c. imposed a burden that is not justified by the need to satisfy the legitimate penological goals of the institution.
- d. ignored the legitimacy of the faith professed by incarcerated persons and the sincerity of their devotion to that faith.

**2. Under the *Kravitz* decision, a court considering a summary motion made with respect to an incarcerated individual's free exercise claim must consider all of the following *except*:**

- a. the importance of the practice at issue to the incarcerated person.
- b. the meaning of the First Amendment's free exercise of religion clause.

- c. the security needs of the institution.
- d. the facts that the plaintiff alleges to be undisputed in opposing or seeking summary judgment.

**3. In *Matter of Jessie Barnes v Shelley Malozzi*, the Article 78 court found that the prison officials improperly:**

- a. created the Confinement Program Plan at the Upstate C.F.
- b. terminated the Confinement Program Plan at Upstate C.F.
- c. placed Mr. Barnes in the program for
- d. without his consent.

**4. The case brought by Julio Nova stands for the proposition that employee assistants must:**

- a. be allowed to work with a lawyer.
- b. meet a certain level of performance.
- c. have satisfied various educational requirements set by the Second Circuit.
- d. disclose their findings to the author of the misbehavior report.

5. **The case law related to the issue raised in *Matter of Blanchard v. Annucci* holds that protection of free speech under the First Amendment requires prison officials to limit restrictions on free speech to regulations that are:**
  - a. the least restrictive possible.
  - b. applied in non-correctional settings.
  - c. the most restrictive possible.
  - d. reasonable in the context of prison management.
6. **Under the Domestic Violence Survivor's Justice Act (DVSJA), a less severe sentence may be imposed on a survivor of domestic violence if the survivor committed the offense:**
  - a. shortly after the most recent episode of domestic violence initiated by a long-term abuser.
  - b. after suffering many years of abuse from the victim, regardless of the temporal relationship of the offense to the abuse.
  - c. in circumstances justifying a trial defense of justification.
  - d. for reasons warranting a reversal of the survivor's conviction.
7. **Under the DVSJA, a defendant who meets the Act's threshold eligibility requirements may apply for:**
  - a. financial compensation.
  - b. a new trial.
  - c. resentencing.
  - d. immediate release from custody.
8. **In *People v. Fischer*, the Third Department affirmed the trial court's denial of the motion for resentencing on the grounds that the Defendant had not:**
  - a. presented any evidence of having been the victim of domestic abuse.
  - b. shown that the domestic abuse and the offense (assault on her father) occurred simultaneously.
  - c. presented any argument about a state or federal constitutional issue.
  - d. shown that she was subject to substantial abuse at or near the time of the offense.

**9. In *People v. Jones*, the Third Department agreed with all of the following arguments made by the Defendant *except*:**

- a. the sentence of 1½ to 3 years was excessively harsh.
- b. the sentencing court had not sufficiently questioned the defendant to determine whether he had read, understood or reviewed with counsel the sentencing agreement.
- c. there was insufficient evidence to determine whether the defendant’s waiver of appeal was knowing, voluntarily and intelligent.
- d. the plea agreement failed to inform the defendant of the appeal rights he retained even after signing a waiver of his right to appeal.

**Answers**

- |      |      |
|------|------|
| 1. c | 6. a |
| 2. a | 7. c |
| 3. d | 8. d |
| 4. b | 9. a |
| 5. d | 10.a |

**10. Under *People v. Jones*, a plea agreement may include:**

- a. a waiver of the right to appeal where the limits on this waiver are explained.
- b. a fine that specifies only the minimum amount that may be imposed.
- c. a fine that does not specify any particular amount or upper limit;
- d. a term of incarceration that exceeds the legislative maximum.

## **Incarcerated Individuals at Albion and Bedford Hills Can Speak With a PLS Lawyer on the Phone**

Once a week, PLS lawyers are available to speak on the phone with women at Albion and Bedford Hills Correctional Facilities about a variety of issues.

### **What is PLS?**

- PLS is a non-profit legal services organization that provides civil legal services to incarcerated individuals in NY State correctional facilities in cases where no other counsel (lawyer) is available.
- We help incarcerated individuals in NY State prisons with issues that arise **during** their incarceration.
- PLS does not assist incarcerated individuals with criminal appeals or issues related to their criminal cases.

### **What kind of legal matters can PLS help me with?**

- Disciplinary hearings
- Child visitation
- Prison conditions
- Housing and protective custody
- Health, mental health and dental care
- Jail time credit and sentence computation issues

### **What kind of help will PLS give me?**

- In some cases our attorneys investigate a case and communicate with DOCCS to be sure that incarcerated individuals are getting the services or care that they need.
- In other cases we provide written materials to help incarcerated individuals advocate for themselves.
- In some cases PLS represents incarcerated individuals in lawsuits against the state.

### **How long can I talk about my problem?**

- Phone calls are limited to 15 minutes each.

### **How do I arrange a call?**

- At Bedford Hills, Offender Rehabilitation Coordinator Figueroa will help you arrange a call. Calls are made on Thursdays between 1:30-2:30 p.m.
- At Albion, Aide Kristine Hydock will help you arrange a call. Calls are made on Wednesdays between 1:00-3:00 p.m.

***Calls may be subject to the number of individuals who signed up.***

## Your Right to an Education



- Are you under 22 years old with a learning disability?
- Are you an adult with a learning disability?
- Do you need a GED?
- Do you have questions about access to academic or vocational programs?

If you answered “yes” to any of these questions, for more information, please write to:

Maria E. Pagano – Education Unit  
Prisoners’ Legal Services  
14 Lafayette Square, Suite 510  
Buffalo, New York 14203  
(716) 854-1007

Pro Se  
114 Prospect Street  
Ithaca, NY 14850

### PLS OFFICES

Requests for assistance should be sent to the PLS office that provides legal assistance to the incarcerated individuals at the prison where you are in custody. Below is a list of PLS Offices and the prisons from which each office accepts requests for assistance.

**PLS ALBANY OFFICE: 41 State Street, Suite M112, Albany, NY 12207**

Adirondack • Altona • Bare Hill • Clinton • CNYPC • Coxsackie • Eastern • Edgecombe • Franklin  
Gouverneur • Great Meadow • Greene • Hale Creek • Hudson • Marcy • Mid-State • Mohawk  
Otisville • Queensboro • Riverview • Shawangunk • Sullivan • Ulster • Upstate • Wallkill • Walsh  
Washington • Woodbourne

**PLS BUFFALO OFFICE: 14 Lafayette Square, Suite 510, Buffalo, NY 14203**

Albion • Attica • Collins • Groveland • Lakeview • Orleans • Wende • Wyoming

**PLS ITHACA OFFICE: 114 Prospect Street, Ithaca, NY 14850**

Auburn • Cape Vincent • Cayuga • Elmira • Five Points

**PLS NEWBURGH OFFICE: 10 Little Britain Road, Suite 204, Newburgh, NY 12550**

Bedford Hills • Fishkill • Green Haven • Sing Sing • Taconic

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