



# JUSTICE VINCENT DEL GIUDICE'S RECORD

## CAREER SUMMARY

- 2002–Present: Judge on the Court of Claims, serving as an Acting Supreme Court Justice
- 1993–2002: Law Office of Vincent M. Del Giudice
- 1980–1993: Assistant District Attorney, Bronx County
- Education: J.D., New York Law School, 1980; B.A., New York University, 1976
- See: [Vincent Del Giudice bio page on NYCourts.gov](#)

## DETAILS OF JUDICIAL SERVICE

- Was appointed to the Court of Claims by Governor Pataki in 2002, then reappointed by Governor Pataki in 2005 and by Governor Cuomo in 2015. Was last [confirmed by the Senate on March 17, 2015](#).
- Has been reassigned to serve as an Acting Supreme Court Justice in Brooklyn since 2002.
- Most recent term has expired. Though the Court of Claims Act specifies that terms on the court are 9 years, [documentation](#) from Del Giudice's last confirmation, in 2015, shows that his term expired on December 31, 2022.
- Will reach mandatory retirement on December 31 unless he is appointed to fill a vacancy on the Supreme Court and "certificated" to serve additional two-year terms, as has been done with at least six judges in the last decade.

## JUDICIAL RECORD

### ***Excessive Sentences***

Of all active judges in the First and Second Departments—covering New York City, Long Island, and the Hudson Valley—over the last 17 years, Del Giudice has had [by far the most sentences overturned](#) for being so excessive that they violated "the interest of justice." A total of more than 500 years have been taken off sentences he has imposed.

- The Appellate Division has the authority to reduce or vacate felony sentences for being so excessive that they violate "the interest of justice." From 2007 to 2023, the First and Second Departments overturned 313 felony sentences after trials for being indefensibly excessive. (These cases represent a small fraction of all felony convictions: Between 2014 and 2022, an average of 19,930 felony cases each year ended with convictions after guilty pleas or jury trial verdicts.)
- Of the 313 sentences reduced or vacated, 19 were sentences Del Giudice had imposed, accounting for more than one-fifth of all overturned excessive sentences imposed by active judges in New York City. The active judges with the next highest totals of such reversals have 8 and 6, respectively, meaning Del Giudice has more than twice and more than three times as many as the two

judges with the next most reversals. Most judges have not had any sentences reduced for being impermissibly excessive.

- Of the 19 defendants whose sentences were overturned, 16 were Black, 2 were Latino, and 1 was white.
- The total number of years reduced off sentences Del Giudice has imposed is more than six times higher than that of any other active judge. Del Giudice's sentences have had a total of 503 years taken off, compared to 80 years for the active judge with the next highest total. The 503 years reduced off sentences Del Giudice has imposed is nearly half of the total from all active judges in New York City.

Del Giudice's record of draconian sentencing extends to cases beyond the data above, such as in cases where Del Giudice imposed sentences after guilty pleas.

- In one such case, the defendant pleaded guilty and accepted a 5-year sentence, the minimum for his charge. When he was arrested on a drug charge before his sentencing date, Del Giudice increased his sentence to 25 years, the maximum allowed sentence for the charge. The Second Department was compelled to intervene to [reduce the sentence](#).
- In another case, a 20-year-old defendant pleaded guilty and accepted a sentence of 25 years to life. Del Giudice then held that the defendant failed two plea conditions: he admitted guilt but claimed the victims had threatened him, and he missed a rescheduled court date without prior notice. For these perceived violations, Del Giudice doubled the sentence to 50 years to life. The appeals court [overturned the doubled sentence](#), reducing it to the original sentence.

Del Giudice earned a reputation as a punitive sentencer within two years of taking the bench, even before the time period analyzed in the data above. His reputation for extreme sentencing has attracted media attention:

- [A 2004 article](#) titled, "Quick on the Trigger: In Brooklyn's gun court the judge sentences first and asks questions later," said that Del Giudice "became notorious for his tough sentences. 'You go in there and it's like: Abandon all hope,' said one defense lawyer who practices in Brooklyn. ... Two people who work with the court—[Amy] Feinstein, the chief Brooklyn district attorney, and John Feinblatt, the city's criminal justice coordinator—said that they think Del Giudice has influenced other judges to give longer sentences."
- [A 2022 article](#) called Del Giudice "Brooklyn's most tough-on-crime judge."

### ***Undermining of Jury System by Considering Acquittals in Sentencing***

An essential doctrine of law is that an acquittal may not be considered in sentencing for any other charge, since a person may not be punished merely for having been charged with a crime. Del Giudice has repeatedly violated this fundamental principle, imposing sentences based on charges for which juries have acquitted defendants at trial, forcing appeals courts to overturn these improper sentences. See the following examples:

- [\*People v. Grant\*](#): The appeals court held that, in sentencing the defendant, Del Giudice “improperly considered crimes of which the defendant was acquitted,” and it ordered a new sentence because of this violation. Del Giudice responded by imposing the same sentence as before. When the defendant appealed a second time, the appeals court reduced the sentence.
- [\*People v. Dante Newman\*](#) and [\*People v. Treyvon Newman\*](#): In each of these prosecutions against two teenage brothers, an appeals court held that Del Giudice improperly took into account charges for which the brothers had been acquitted, and ordered resentencing. At the sentencing for one of the brothers, Del Giudice repeatedly implied that the defendant had attempted to murder another person, including saying that he acted with the “purpose of eliminating any witnesses.” Del Giudice’s implication that the defendant was guilty of attempted murder contradicted the jury’s unanimous decision to acquit him of that charge. Had the appeals court not intervened, each brother’s sentence would have been twice as long.
- [\*People v. Theodore\*](#): In this case, a jury acquitted the defendant of murder. At sentencing, Del Giudice said the defendant had committed “a wanton murder ... and the jury showed him mercy by giving him a manslaughter conviction.” The appeals court called these “intemperate remarks” that “suggested that the Justice improperly sentenced the defendant based on a crime for which he was acquitted.” The appeals court overturned the sentence and ordered a new trial in front of a different judge. (See below for more information on this case.)

### **Case Reassignments**

The Appellate Division has underscored its lack of confidence in Del Giudice by [repeatedly reassigning](#) overturned cases to be reheard by other judges, an exceptionally rare action.

- In nearly 50,000 appellate decisions over the last 17 years, the Appellate Division took the unusual step of assigning an overturned case to be reheard by a different trial court judge only 66 times. The appeals courts have reassigned cases away from only 50 different trial court judges, of whom only 13 are still on the bench.
- Of all active judges, Del Giudice has the highest count, with 5 such instances—accounting for over a quarter of all cases reassigned away from active judges.
- In the appeals courts’ opinions explaining why they reassigned cases away from Del Giudice, they wrote that his “erroneous rulings and jury instructions” violated one defendant’s right to a fair trial, that he violated another defendant’s Sixth Amendment right to counsel, and that his statements at another defendant’s sentencing suggested that he improperly sentenced the defendant for a crime of which he had been acquitted.
- Read more about these reassigned cases below.

## ***Exoneration after False Identification***

Del Giudice allowed a murder case to proceed to trial despite knowing that a detective had falsely testified about an identification procedure. The defendant, Sheldon Thomas, who was 17 years old when the crime occurred, was convicted at trial and sentenced to life in prison. After he spent 18 years in prison, his sentence was overturned due to numerous issues, including the flawed identification that Del Giudice accepted.

- At the pre-trial hearing, a detective was a key witness for the prosecution, testifying about witness identifications, particularly one witness's identification of Sheldon Thomas from a photo array. Cross-examination revealed that Thomas was not among the people in the photo array, and the detective admitted that he had falsely testified about the identification. Del Giudice adjourned the hearing for several days. When the hearing resumed, the detective's testimony changed: He claimed he had not knowingly given false information, saying that he had believed Thomas was the person in the photo array and he only realized the mistake during cross-examination. Del Giudice permitted the case to move forward to trial, acknowledging that the photo array had not contained any photos of Thomas but saying that was "of no legal consequence."
- At [Thomas's sentencing](#), when he was only 20 years old, Del Giudice said to him: "You are a lost soul. You are almost beyond redemption. You are a menace to society. In fact, you act like a barbarian." He sentenced Thomas to life in prison.
- Thomas was exonerated 18 years later by the Brooklyn District Attorney's Office, which found numerous problems in the case, including, and most centrally, the identification that Del Giudice accepted. At the court appearance granting Thomas his freedom, [he said](#), "When I was sentenced, Del Giudice said that I deserve to spend the rest of my life in prison, that I was a menace to society. ... He was wrong. I didn't deserve what happened."
- See coverage in [The New York Times](#), the [University of Michigan National Registry of Wrongful Convictions](#), and [The New York Post](#).

## ***Cruelty and Unfit Judicial Temperament***

Del Giudice has been gratuitously cruel to defendants many times, violating rules of judicial ethics and professional conduct that say that judges "should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards," "shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary," and "shall be patient, dignified and courteous to litigants." In just the cases described above, in which sentences that Del Giudice imposed were vacated or reduced, he has said the following:

- "You are a lost soul. You are almost beyond redemption. You are a menace to society. In fact, you act like a barbarian." (Del Giudice said this to a teenage defendant who was later exonerated; see above.)
- "Your whole life you never, you've never done anything worthwhile in your entire life, only been a scourge on society. ... God, how can you ever be a role model for

anyone? ... You should be excised from the body politic and be incarcerated for as long as possible. And I'm not, in my sentence, I'm not considering the fact that you are maintaining your innocence." (This sentence was reversed and the case was assigned to a different judge because of these statements. In a later trial in front of a different judge, this defendant was acquitted.)

- "You are a cancer on society, young man. You will be removed from society and placed in quarantine." (The sentence Del Giudice gave this defendant was vacated because of statements suggesting that Del Giudice had sentenced him based on a crime for which he had been acquitted.)
- "You are an evil person. You're a murderer." (Del Giudice said this to a defendant who was acquitted of a murder charge and only convicted of a lesser charge. On appeal, the sentence was vacated because this statement suggested Del Giudice had sentenced the defendant based on a crime for which he was acquitted).
- "I can dispense mercy prior to trial, but after a jury's verdict I dispense justice." (Del Giudice said this in justifying a 23-year sentence, just two years shy of the maximum allowed. The appellate court later reversed this sentence and reassigned the case away from Del Giudice because of these "intemperate remarks ... which suggested that [Del Giudice] improperly sentenced the defendant based on a crime for which he was acquitted.")

Del Giudice has also been "[caught vaping his way through a high-profile murder trial.](#)" An article about his practice of vaping on the bench included a photo of him doing so and quoted a court worker saying: "Everybody knows about it, but nobody says anything." Smoking or vaping inside courtrooms is illegal under New York law. Del Giudice's violation of the law from on the bench itself, while wielding the law as harshly as possible against others, demonstrates hypocrisy, disrespect for his position, and a sense of impunity.

### ***Details about Reassigned Cases***

See below for more about the five cases mentioned above, which the Appellate Division reassigned away from Del Giudice.

- [People v. Ward](#): Del Giudice improperly permitted a witness—who initially identified the defendant as the perpetrator of the charged crime but later stopped cooperating with the prosecution and invoked his Fifth Amendment right against self-incrimination—to testify as an unsworn witness. Del Giudice also allowed the prosecutor to exploit this situation by posing leading questions and making prejudicial arguments during summation, linking the witness's silence to the defendant's guilt. The Appellate Division overturned the conviction and mandated that the case be assigned to a judge other than Del Giudice because of statements Del Giudice made during sentencing, including that the defendant was a "scourge on society" and suggesting that he "should be excised from the body politic." In a later trial in front of a different judge, the defendant was acquitted.

- [People v. Theodore](#): Del Giudice permitted the prosecutor, over the defense's objections, to highlight the defendant's failure to offer an exculpatory version of the events to the police—a violation of the constitutional right to remain silent. The Appellate Division reversed the conviction and mandated that the case be assigned to a judge other than Del Giudice because of concerns about Del Giudice's conduct. The Appellate Division noted that Del Giudice's statements at sentencing suggested that he improperly sentenced the defendant based on a crime for which he was acquitted. At the sentencing, Del Giudice said, "I saw the surveillance video of your client; it was a wanton murder on your client's behalf. And the jury showed him mercy by giving him a manslaughter conviction." In mandating that a different judge oversee the case upon reversal, the Appellate Division also noted Del Giudice's decision to deny a plea agreement reached mid-trial because of his personal "policy" that once a trial starts, he does not allow plea deals. Though the agreed-upon sentence under the plea arrangement was for 17 years, Del Giudice imposed a 23-year sentence, just two years shy of the maximum allowed.
- [People v. Owensford](#): After the defendant entered into a cooperation agreement in exchange for a more lenient sentence, the prosecution claimed that the defendant had breached the agreement. Although Del Giudice permitted the defense to orally argue that no breach occurred, he interrupted multiple times to challenge the defense attorney, to remark upon the defendant's "horrible" acts, and to denigrate the defense attorney's explanations. Without considering any further evidence or hearing any testimony, Del Giudice ruled that the defendant had "breached the cooperation agreement and breached the plea agreement," and so the court was "released from the promise[d] sentence." Moreover, Del Giudice said that the prosecution "unilaterally" determines whether a cooperation agreement is breached and that a judge is "not allowed to inquire whether or not it's material," abdicating a judge's responsibility to determine whether a material breach occurred. The Appellate Division reversed the conviction and sent the overturned case to be heard by a different judge "because of remarks made by [Del Giudice] throughout the proceedings."
- [People v. Scott](#): The defendant claimed he had a breakdown in communication with his assigned counsel, and he sought an adjournment to secure representation from a specific attorney. Del Giudice summarily denied the request without inquiry, at which point Del Giudice and the defendant got into an oral argument. Del Giudice reacted by holding the defendant in contempt of court and sentencing him to 30 days in jail. The Appellate Division reversed, finding that Del Giudice's decision violated the defendant's Sixth Amendment right to counsel, and assigned the case to a new judge.
- [People v. Kirby](#): Del Giudice denied the defendant's motion to set aside a sentence imposed by a different judge for failure to abide by the correct sentencing procedure. The Appellate Division reversed and noted that under "the particular circumstances of this case" the reversed case should be heard by a judge other than Del Giudice.