



JUSTICE M. WILLIAM BOLLER'S RECORD

Justice Boller has permitted racial discrimination in jury selection, imposed excessive sentences that appeals courts have repeatedly reduced in the interest of justice, imposed illegal sentences that appeals courts have repeatedly had to fix, failed to safeguard New Yorkers' constitutional rights, and failed to rule on key legal questions, requiring higher courts to intervene.

CAREER SUMMARY

- 2007–Present: Supervising Judge, Justice Courts, 8th Judicial District, Appointed by Chief Administrative Judge Jonathan Lippman
- 2006–Present: Acting Justice, Supreme Court, Erie County
- 2006–Present: Judge, Court of Claims
- 1984–2006: Elma Town Court, Town Justice
- 1981–2006: Erie County Department of Social Services, Office of Counsel
- Education: J.D., University of Baltimore, 1980; B.S., The American University, School of Government and Public Administration, 1977

Source for the above information: [Judicial Directory](#).

DETAILS OF JUDICIAL SERVICE

- Has been a judge for 41 years.
- Was first appointed to the Court of Claims by Governor Pataki in 2006. Was reappointed by Governor Paterson in 2010 and by Governor Cuomo in 2019.
- Has been designated to serve as an Acting Supreme Court Justice since 2006, originally by Chief Administrative Judge Jonathan Lippman and recertified annually by each subsequent Chief Administrative Judge.
- Will reach mandatory retirement within the next two years, 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 seven judges in the last decade](#).

JUDICIAL RECORD

Permitted racial discrimination in jury selection

In [People v. Mallory](#), the Appellate Division unanimously reversed a conviction after finding that Justice Boller had allowed the prosecutor in the case to use race-based reasoning to exclude two Black jurors. The appellate court ruled that the prosecutor’s justification for striking these

jurors was not race-neutral and directly invoked their answers to a race-based question that had not been individually posed to white jurors. Worse, the prosecutor openly admitted concern that Black jurors who believed racial profiling existed might not trust white police officers, an explanation that the court found discriminatory on its face, since it was unrelated to the facts of the case. Justice Boller had accepted this rationale, greenlighting unconstitutional jury selection.

Imposed excessive sentences that appeals courts have repeatedly reduced in the interest of justice

Justice Boller has imposed numerous sentences that appeals courts have ruled were indefensibly excessive and therefore must be reduced. This has happened after both trials and plea deals, raising concerns about what's often called a "trial penalty," where defendants are pressured to take plea deals with higher-than-normal sentences because they fear the judge will be even more punitive if they go to trial.

- In rare circumstances, the Appellate Division reduces sentences for being so excessive that they violate "the interest of justice." From 2007 to 2023, the First and Second Departments overturned an [average of 18.5 felony sentences](#) per year after trials for being excessive, representing a tiny fraction of all felony convictions.
- On four occasions, the Appellate Division reduced sentences imposed by Justice Boller because it found them to be excessive. In total, 50 years were taken off these excessive sentences.
 - Justice Boller's four excessive sentences are tied for the [most out of all active upstate judges](#) and more than [98.8% of judges statewide](#).
 - The 50 years reduced of these sentences is the [second most](#) out of all active upstate judges and more than [99.4% of judges statewide](#).
 - Details of these cases:
 - [People v. Scarver](#): The Appellate Division unanimously reduced the sentence Justice Boller imposed after trial from 50 years to 25 years, finding the original sentence unduly harsh.
 - [People v. Hampton](#): The Appellate Division unanimously reduced the sentence Justice Boller imposed after trial from 24 years to 15 years, finding the original sentence unduly harsh in light of the defendant's lack of a serious criminal record and young age.
 - [People v. Schumaker](#): The Appellate Division unanimously reduced the sentence Justice Boller imposed after trial from 25 years to life to 18 years to life, finding the original sentence unduly harsh in light of the defendant's youth, lack of prior convictions, and mental health issues.
 - [People v. Ray](#): The Appellate Division unanimously reduced the sentence Justice Boller imposed after trial from 25 years to life to 16 years to life,

finding the original sentence unduly harsh given the defendant's lack of direct weapon possession in the case.

- In an additional case, the Appellate Division found a legal error and also reduced the sentence Justice Boller imposed after trial. Because this decision involved a finding of legal error, it is not included in the statistics above. Still, this case demonstrates Justice Boller's extreme punitiveness when he has full discretion to impose sentences after trials:
 - [*People v. Geroyianis*](#): The Appellate Division unanimously reduced the sentence Justice Boller imposed after trial, cutting the burglary sentence to 16 years to life and reducing two grand larceny convictions due to insufficient evidence of the value of the objects taken. It vacated the original sentences on those counts and remitted for resentencing, finding the original sentence excessive and modifying it in the interest of justice.
- Appeals courts have also reduced excessive sentences Justice Boller imposed after guilty pleas. These include:
 - [*People v. Cordon*](#): Justice Boller sentenced a military veteran to consecutive prison terms, despite evidence that the defendant's opioid addiction stemmed from injuries sustained while serving in the U.S. Army. The defendant had accepted responsibility, shown remorse, and struggled with mental illness. The Appellate Division unanimously found the sentence unduly harsh and reduced it, ordering all time to run concurrently.
 - [*People v. Scott*](#): Justice Boller sentenced the defendant to 15 years in prison—nearly double the maximum he promised to impose—because the defendant told his probation officer that he hadn't committed the burglaries he pleaded guilty to. The Appellate Division unanimously reduced the sentence, calling it excessive and cutting it down to 10 ½ years.
 - [*People v. Hayhurst*](#): Justice Boller revoked probation and imposed a prison sentence of 7 years for attempted burglary. The Appellate Division found that punishment excessive under the circumstances and unanimously cut the sentence in half, reducing it to 3 ½ years.
 - [*People v. Maracle*](#): Justice Boller imposed a prison sentence for a non-violent felony that the appellate court found excessive. The Appellate Division unanimously reduced the sentence.

Imposed illegal sentences that appeals courts have repeatedly had to fix

Justice Boller has repeatedly imposed sentences that higher courts ruled were illegal, requiring full or partial resentencing by unanimous appellate courts. Justice Boller's numerous legal errors have included imposing terms that violated basic legal rules, misapplying rules for enhanced sentencing, ignoring mandatory procedures, failing to rule on youthful offender eligibility, and imposing unlawful consecutive sentences. This pattern of serious errors reflects a

failure to understand and apply sentencing law, even after repeated criticism from the Appellate Division. Examples include:

- [*People v. VanValkinburgh*](#): The Appellate Division unanimously reversed the sentence that Justice Boller imposed, finding the prison terms illegal because they were not in whole or half years as required by law, and remitted the case for a new resentencing.
- [*People v. Moss*](#): The Appellate Division unanimously vacated the sentence Justice Boller imposed after a guilty plea, finding that he illegally sentenced the defendant as a second violent felony offender based on a predicate offense that did not qualify. The case was remitted for resentencing.
- [*People v. Shapard*](#): The Appellate Division unanimously vacated the sentence Justice Boller imposed after a guilty plea, finding that the court erred by sentencing the defendant without first ordering a presentence report as required by law, and remitted the case for resentencing.
- [*People v. Whalen*](#): The Appellate Division unanimously vacated the sentence Justice Boller imposed after a guilty plea, finding the court failed to rule on the defendant's request for youthful offender treatment. The case was remitted for resentencing following a proper determination on that issue.
- [*People v. Tajene J.*](#): The Appellate Division unanimously modified the sentence Justice Boller imposed after revoking youthful offender probation, directing that all sentences run concurrently. It found the consecutive sentences illegal because they exceeded the statutory maximum for youthful offenders.
- [*People v. Orth*](#): The Appellate Division unanimously modified the sentence Justice Boller imposed after a guilty plea, directing that the one-year sentences for petit larceny and resisting arrest run concurrently, finding the original consecutive sentences illegal because the offenses arose from a single incident.
- [*People v. Little*](#): The Appellate Division unanimously modified the sentence Justice Boller imposed after trial by directing that the sentences run concurrently, finding the original sentencing structure illegal.
- [*People v. Brown*](#): The Appellate Division unanimously modified the sentence Justice Boller imposed after trial by directing that the sentences run concurrently.
- [*People v. Smith*](#): The Appellate Division unanimously modified the sentence Justice Boller imposed by directing that two sentences run concurrently, holding they stemmed from the same conduct.
- [*People v. Pearson*](#): The Appellate Division unanimously vacated the sentence Justice Boller imposed on a DWI count after a guilty plea, finding that Justice Boller misunderstood the extent of his sentencing discretion: He said that the fine would be between \$1,000 and \$5,000, when the law allowed for a lower fine—or none at all, if jail time was imposed. Justice Boller also failed to consider the proper legal limits on

probation and the ignition interlock requirement. These were not minor errors: Justice Boller got the sentencing law wrong, and the case had to be sent back for resentencing.

- [People v. Eron](#): The Appellate Division unanimously vacated the sentence Justice Boller imposed after a guilty plea, finding that the court improperly enhanced the sentence by imposing fines in violation of the plea agreement and imposed an illegal sentence on one count. The case was remitted for resentencing or plea withdrawal.
- [People v. Long](#): The Appellate Division unanimously reduced the sentence Justice Boller imposed after a guilty plea, lowering the post-release supervision period from five years to 2½ years, finding the court misunderstood its sentencing discretion and modifying the sentence to reflect the promised minimum.
- [People v. Smith](#): The Appellate Division unanimously reversed two parts of a conviction Justice Boller presided over at trial, dismissing two charges because it found that he had improperly instructed the jury about the charges and that one charge lacked sufficient evidence of injury. The court also reversed the resentence, finding that an out-of-state conviction had been improperly used to enhance the sentence, and sent the case back for resentencing.

Failed to safeguard New Yorkers' constitutional rights

Suppression hearings are hearings at which trial judges decide whether evidence should be kept out of trial because police violated a person's constitutional rights. In four cases, Justice Boller ruled that no constitutional rights violations took place—only to be overruled by the Appellate Division. Together, these cases place Justice Boller's reversal rate on this issue [at 8%](#)—higher than [92.9% of judges statewide](#). This rate of error is not merely technical; it implicates a judge's understanding of fundamental constitutional law and willingness to protect New Yorkers' constitutional rights.

- [People v. Tubbins](#): Justice Boller upheld an arrest based solely on the fact that the defendant ran when approached by police—despite no evidence that police had ordered him to stop. The Appellate Division unanimously reversed him, holding that the arrest was unlawful and the entire case must be dismissed.
- [People v. Suttles](#): Justice Boller upheld a traffic stop based solely on police officers' rough, untrained guesses of the car's speed: they had not used radar, pacing, or any other basis to assess speed by sight. Four appellate judges reversed him, ruling that the stop had been unconstitutional and dismissing the case.
- [People v. Rollins](#): Justice Boller upheld an arrest based on nothing more than a man dropping dice and walking away from police officers. The Appellate Division unanimously found the arrest unconstitutional and ordered the case sent back after faulting Justice Boller for ignoring key legal issues entirely.
- [People v. Sykes](#): Justice Boller upheld an arrest as constitutional by invoking a legal theory that the prosecution never argued, much less proved. In overturning his ruling, a

unanimous appellate court also faulted Justice Boller for skipping the core constitutional question in the case.

In other instances, Justice Boller committed errors that undermined New Yorkers' rights to a fair trial and due process:

- [*Matter of Chang v. Billie J.C.-W.*](#): Justice Boller appointed a permanent guardian for an allegedly incapacitated woman without holding a hearing in her presence or making the legally required findings about her ability to participate. The Appellate Division unanimously reversed, ruling that such a sweeping intrusion on personal liberty demanded strict adherence to due process and ordering a new hearing at which the woman must be given the chance to appear.
- [*People v. Nixon*](#): The Appellate Division unanimously reversed the conviction that Justice Boller presided over and granted a new trial, finding that he erred in denying the defendant's motion to sever his trial from a codefendant with irreconcilable defenses, resulting in prejudice that required reversal.

Failed to rule on key legal questions, requiring higher courts to intervene

Justice Boller has failed to rule on critical pretrial or post-conviction motions—such as grand jury challenges and sentencing eligibility—forcing appellate courts to send the cases back for basic rulings that Judge Boller failed to make. This reflects a troubling failure to uphold core judicial responsibilities.

- [*People v. Jones*](#): Justice Boller failed to rule on a key pretrial motion challenging the integrity of the grand jury proceedings. Because a court's failure to rule cannot be treated as a denial, the Appellate Division was forced to intervene—pausing the case and sending it back for the basic ruling Justice Boller should have issued originally.
- [*People v. Vernon*](#): Justice Boller failed to rule on a post-conviction claim that the prosecution had used testimony it knew was false. Because the court never addressed that part of the motion, the appellate judges could not treat it as denied and had to send the case back to get a ruling, another avoidable error requiring correction by a higher court.

Justice Boller has also denied examination of a criminal conviction despite credible evidence of prosecutorial and police misconduct. In [*People v. Reed*](#), Justice Boller denied a motion to vacate a conviction without holding a hearing, even though the defendant presented credible evidence that a police officer gave false testimony and that the prosecutor knew or should have known it was false. The defendant also showed that the prosecution withheld key exculpatory evidence. The Appellate Division unanimously reversed, finding that a hearing was required.