

David Nocenti
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25 Beaver Street, 10th Floor
New York, NY 10004

June 26, 2026

Dear Mr. Nocenti:

We write pursuant to the [Invitation for Public Comment](#) dated May 6, 2026, to urge the Administrative Board to deny certification to the following Justices:

1. Mario F. Mattei,
2. Timothy P. Mazzei,
3. Thomas E. Moran, and
4. Laura A. Ward.

The Invitation for Public Comment invites “comment from persons who are able to evaluate the performance of the following Justices or retired Justices of the Supreme Court who are seeking certification or recertification to continue judicial service pursuant to N. Y. Const. Art. VI, § 25(b) and Judiciary Law § 115.” That document states:

In order to assist in its evaluation, the Board seeks comment on the following qualities and abilities of these judges:

- *Legal ability, including knowledge of the law, legal experience, legal scholarship, and writing.*
- *Competence to perform the duties of the office, including organizational, management, and human relations skills; physical and mental health; and work ethic.*
- *Judicial demeanor, integrity and character, and commitment to equal justice under law.*

Certification to serve as a judge beyond the mandatory retirement age is not a right. In *Matter of Marro v. Bartlett* in 1979, the Court of Appeals noted that “[t]he adequate, conscientious discharge of the obligation of the board necessarily demands that it be vested with the very broadest authority for the exercise of responsible judgment” and the Administrative Board has “very nearly unfettered discretion in determining whether to grant applications of former Judges for certification.”¹ In *Matter of Gerald E. Loehr v. Administrative Board of the Courts of the State of New York* in 2017, the Court of Appeals reiterated that the Administrative Board has “the very broadest authority” to determine whether to grant applications for certification.²

¹ 46 N.Y.2d 674, 681.

² 29 N.Y.3d 374, 381.

The Administrative Board is therefore entrusted with a vital public responsibility: ensuring that no judge is certificated to continue serving on the bench beyond the state's mandatory retirement age without showing that they meet the high standards of legal knowledge, impartiality, and integrity that New York law demands—and New Yorkers expect—of every judge. Indeed, the Unified Court System's mission statement implies that UCS expects all judges under its purview to live up to these high standards: "The mission of the Unified Court System (UCS) is to deliver equal justice under the law and to achieve the just, fair and timely resolution of all matters that come before our courts."³

The appellate records of Justices Mattei, Mazzei, Moran, and Ward, which are detailed in appendices to this letter, raise concerns serious enough to be disqualifying for certification. These judges' records demonstrate that they do not possess the legal ability and competence necessary for continued judicial service. The dozens of reversals detailed below—which span a wide range of legal grounds, including illegal and excessive sentences, suppression reversals, and errors undermining jury integrity—reflect on the judges' legal judgment and competence; their ability and willingness to consistently protect New Yorkers' rights, including constitutionally guaranteed rights; their sentencing practices; and their compliance with procedural safeguards; among other indications of legal ability, competence, and judicial integrity. In reversing two of the judges, appellate courts have gone so far as to reassign those cases to be reheard by different judges, an extraordinarily rare move that serves as a serious red flag, suggesting the possibility of judicial impropriety that goes beyond legal error.

A record of cases overturned on appeal is not one of ordinary workplace mistakes. Appellate courts do not lightly reverse criminal convictions or trial judges' rulings; they often defer to trial judges, disregard harmless errors, and affirm convictions. A record of overturned cases is therefore a clear signal: again and again, appellate courts found legal errors serious enough to overcome ordinary deference and require correction. That is not just disagreement from a higher court with the judge's reasoning; it is evidence that the judge has not performed their job with the care and competence it demands.

The Administrative Board must consider the appellate records of Justices Mattei, Mazzei, Moran, and Ward when evaluating whether they merit certification to continue serving beyond New York's judicial mandatory retirement age. The four judges' records show that they have failed to meet the standards the Administrative Board has articulated for continued judicial

³ See the following pages on the Unified Court System's website: About Us [<https://www.nycourts.gov/about-us>], Court Administration [<https://www.nycourts.gov/court-administration>], Programs and Services [<https://www.nycourts.gov/programs-and-services>], Office for Justice Initiatives [<https://www.nycourts.gov/office-justice-initiatives>], Office of Diversity & Inclusion [<https://www.nycourts.gov/office-diversity-inclusion>], Office of the Inspector General Discrimination Matters Unit [<https://www.nycourts.gov/office-inspector-general/discrimination-matters-unit>], Franklin H. Williams Judicial Commission Mission Statement [<https://www.nycourts.gov/franklin-h-williams-judicial-commission/mission-statement>], Richard C. Failla LGBTQ Commission [<https://www.nycourts.gov/richard-c-failla-lgbtq-commission>], and Advisory Committee on Access for People with Disabilities [<https://www.nycourts.gov/advisory-committee-access-people-disabilities>].

service, as well as the judicial standards implied by the Unified Court System's mission statement.

We appreciate the Office of Court Administration soliciting public comment in the certification and recertification determination process, since such feedback from the public is critical. We urge the Administrative Board to take seriously the concerns detailed in the following pages and deny certification to Justices Mattei, Mazzei, Moran, and Ward.

Sincerely,

Peter F. Martin
Director of Judicial Accountability, Center for Community Alternatives

Katie Schaffer
Director of Advocacy & Organizing, Center for Community Alternatives

Appendix A: Justice Mario F. Mattei

Justice Mattei's record shows recurring appellate intervention in two principal areas: sentencing and basic procedural compliance. Appellate courts have repeatedly modified sentences Justice Mattei has imposed because they were either legally impermissible or so excessive that they violated the interest of justice. Other times, appellate courts reversed Justice Mattei for accepting legally defective charging instruments, for jury-related errors, and for failures to comply with procedural safeguards designed to protect fairness in criminal proceedings. Justice Mattei has also been reversed in one out of seven appeals alleging that he allowed evidence to be admitted at trial in violation of constitutional protections against police abuses, a rate higher than 89% of judges statewide.⁴

Illegal and Excessive Sentences

Justice Mattei has repeatedly imposed sentences that appellate courts have determined were either unlawful or so excessive that they violated the interest of justice and must therefore be reduced. All four of these modifications and reversals have overturned Justice Mattei's decisions to impose consecutive sentences, showing that to be a recurring practice not only where he is called on to use his discretion, but also in his basic application of the statutory sentencing law.

A Pattern of Excessive Sentencing

Trial judges possess broad discretion in determining punishment after a trial conviction, so appellate courts very rarely modify sentencing decisions: From 2007 to 2023, the First and Second Departments of the Appellate Division overturned an average of only 18.5 felony sentences after trials per year for being excessive, representing only a tiny fraction of all felony convictions.⁵ When an appellate court reduces a sentence in the interest of justice, it effectively determines that the punishment the trial judge chose to impose exceeded what fairness and proportionality permit.

Appellate courts have at least twice found sentences that Justice Mattei has imposed to be too excessive and reduced them by a combined 28 years, placing him higher than 96% and 98% of judges in New York State by those two metrics, respectively.⁶

- In [People v. Ford](#) (2024), the Appellate Division determined that the sentence Justice Mattei imposed was excessive because he directed it to run consecutively to the defendant's existing sentences. The appellate court changed the sentences to run concurrently, thereby reducing the defendant's aggregate term of imprisonment.

⁴ [Judicial profile of Justice Mario F. Mattei](#), by Scrutinize.

⁵ See "[Excessive Sentencers: Using Appellate Decisions to Enhance Judicial Transparency](#)," by Scrutinize and The Center on Race, Inequality, and the Law at NYU School of Law.

⁶ [Judicial profile of Justice Mario F. Mattei](#), by Scrutinize.

- In [People v. Watkins](#) (2023), the Appellate Division held that the sentences Justice Mattei had imposed were unduly harsh because he directed them to run consecutively. The appellate court modified the sentences in the interest of justice, changing them to run concurrently and reducing the overall punishment.

Illegal Sentences

A trial judge bears primary responsibility for imposing lawful sentences and following sentencing procedures. In the cases below, the Appellate Division had to step in and correct Justice Mattei's sentencing errors, a fact that raises concerns about his command of the law in one of the most basic domains of judicial responsibilities. sentencing law.

- In [People v. Gutierrez](#) (2022), Justice Mattei imposed consecutive sentences for offenses arising from the same conduct. The Appellate Division ruled that the sentences could not legally run consecutively and modified them to run concurrently.
- In [People v. Ortiz](#) (2021), Justice Mattei directed sentences on separate counts to run consecutively. The Appellate Division concluded that the evidence did not establish sufficiently distinct acts to justify consecutive sentences and modified the sentences to instead run concurrently.

Failure to Protect Constitutional Rights in a Suppression Hearing

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. A judge's suppression errors implicate their understanding of fundamental constitutional law and their willingness to protect New Yorkers' constitutional rights. Justice Mattei's suppression error, below, should be understood in this context.

- In [People v. Barkley](#) (2017), the Appellate Term reversed a conviction because it found that Justice Mazzei improperly denied a suppression motion. The court held that the police lacked probable cause for the defendant's arrest and so the evidence obtained as a result should have been suppressed. The court vacated the guilty plea, suppressed the evidence, and dismissed the charges.

Errors Undermining Jury Integrity

Verdicts rendered after jury trials derive their legitimacy from the jury process. Constitutional and statutory laws grant all defendants in criminal cases rights related to the jury process, from selection to instruction to deliberation. When judges fail to uphold these rights—for example, by failing to follow all jury-related requirements before accepting a verdict or by giving jurors incorrect instructions, as Justice Mattei has done—such errors fundamentally compromise the

reliability of the resulting verdict. Jury errors like those in the two cases below implicate the integrity of the jury process.

- In [*People v. Moody*](#) (2021), Justice Mattei accepted a verdict after a juror reported “feeling ‘distraught during [the deliberation] process’ and expressed her desire to cease serving as a juror,” The Appellate Division reversed the defendant’s conviction and ordered a new trial, holding that Justice Mattei had failed to conduct the “probing and tactful inquiry” of the juror that the law required before he accepted a verdict under those circumstances.
- In [*People v. Walkin*](#) (2017), Justice Mattei incorrectly instructed the jury that a blood-alcohol concentration of 0.08 was sufficient to establish the charge of aggravated driving while intoxicated, even though the law requires proof of a higher blood-alcohol concentration, 0.18, to establish that charge. The Appellate Division vacated the conviction and ordered a new trial on this charge because of Justice Mattei’s incorrect jury instruction.

Failures Involving Legally Defective Charging Instruments

Judges are entrusted with overseeing criminal cases to ensure that prosecutions do not move forward on charging documents that have jurisdictional defects. A legally insufficient accusatory instrument is not a technical flaw; it means the prosecution has failed to allege facts establishing the offense charged. That duty is especially clear when the issue is raised before the judge. In several cases, appellate courts reversed Justice Mattei’s decisions because he allowed prosecutions to proceed on criminal complaints that did not adequately support the charges, reflecting a failure to address a threshold defect before the case resulted in a conviction.

- In [*People v. Brissett*](#) (2019), the Appellate Term reversed convictions because the criminal complaints underlying them failed to sufficiently allege the charges. The court vacated the pleas and dismissed those charges.
- In [*People v. Willis*](#) (2019), the Appellate Term reversed a conviction after concluding that the criminal complaint failed to allege facts establishing an essential element of the offense.
- In [*People v. Santagata*](#) (2018), the Appellate Term vacated a marijuana-possession conviction because the factual allegations established that the defendant had wrapped the marijuana in tin foil, and it was therefore not openly visible in public, a requirement of that charge.
- In [*People v. Vega*](#) (2015), the Appellate Term reversed a conviction after concluding that the criminal complaint did not contain sufficient factual allegations to establish the offense charged.

Other Errors

- In [*People v. Beaton*](#) (2020), the Appellate Division concluded that Justice Mattei improperly maintained a witness-protection order despite the prosecution's failure to establish a legally sufficient basis for the restriction, limiting defense access to information relevant to trial preparation.

Appendix B: Justice Timothy P. Mazzei

Justice Mazzei's record demonstrates numerous sentencing-related errors and excessive sentences, as well as one case in which an appellate court was so concerned about his conduct that it reassigned the case to be reheard before a different trial judge—an extraordinary rate of such reversals and a telling red flag. Appellate courts have reversed Justice Mazzei twice and modified his judgments 13 other times. Seven of these appellate decisions involved sentences that were so excessive that they required reductions, while six involved sentencing errors, including illegal post-release supervision terms, improper predicate-felony procedures, lesser-included-offense convictions, and failures to make required findings. This record shows a pattern of appellate intervention that spans years and several categories of sentencing errors.

Reversal Requiring Resentencing Before a Different Judge

The vast majority of times that appellate courts side with defendants on appeals and order new proceedings, they assign the new proceedings to the trial judges whose original rulings they overturned. Reassignments to different judges are extraordinarily rare: even when appellate courts find that trial judges have abused discretion, acted improperly, or otherwise committed reversible error, almost never do they reassign further proceedings to different judges.⁷ For that reason, when an appellate court not only vacates a conviction but also directs that further proceedings occur before a different judge, the decision serves as a serious red flag, suggesting the possibility of judicial impropriety that goes beyond getting the law wrong.

- In [People v. Jeffriesel](#) (2022), Justice Mazzei imposed sentence after he, in the Appellate Division's words, "improperly speculated and considered" that the defendant had committed additional similar crimes for which she had not been apprehended. The Appellate Division vacated the sentence and remitted the case for resentencing before a different judge.

Pattern of Excessive Sentencing

Trial judges possess broad discretion in determining punishment, so appellate courts very rarely modify sentencing decisions.⁸ When an appellate court reduces a sentence in the interest of justice, it effectively determines that the punishment the trial judge imposed exceeded what fairness and proportionality permit.

⁷ Scrutinize's analysis of 49,830 appellate criminal decisions from 2007 to 2023 found that only 66 decisions reassigned an overturned case to a different judge—1% of all reversed and remitted cases, or 0.1% of all cases. See "[Reverse & Reassign: Red Flags of Improper Judicial Conduct](#)," by Scrutinize.

⁸ From 2007 to 2023, the First and Second Departments of the Appellate Division overturned an average of only 18.5 felony sentences after trials per year for being excessive, representing only a tiny fraction of all felony convictions. See "[Excessive Sentencers: Using Appellate Decisions to Enhance Judicial Transparency](#)" by Scrutinize and The Center on Race, Inequality, and the Law at NYU School of Law, which did not analyze available data from the Third and Fourth Departments, under whose purview Justice Moran sits.

In at least seven cases, appellate courts have found that Justice Mazzei imposed sentences that were so excessive that they violated the interest of justice, and they reduced these sentences by a combined 30 years. Both his number of excessive sentence findings and his total years reduced are among the highest in New York, putting him in the 99th and 98th percentile of all New York judges, respectively, by these metrics.⁹

- In [People v. Lundquist](#) (2020), Justice Mazzei imposed a sentence of 25 years to life. The Appellate Division found the sentence excessive and reduced it in the interest of justice to 20 years to life.
- In [People v. Trent](#) (2020), Justice Mazzei imposed a sentence of 12 years' imprisonment plus 5 years of post-release supervision. The Appellate Division found the sentence excessive and reduced it to 8.5 years of imprisonment plus 3.5 years of post-release supervision.
- In [People v. Fuentes](#) (2020), Justice Mazzei imposed a 25-year sentence, which the Appellate Division found excessive, reducing it to 15 years in the interest of justice.
- In [People v. Colon](#) (2020), Justice Mazzei imposed a sentence of 23 years' imprisonment plus 5 years of post-release supervision. The Appellate Division found the sentence excessive and reduced it in the interest of justice to 20 years' imprisonment plus 5 years of post-release supervision.
- In [People v. Mendez](#) (2020), Justice Mazzei imposed a sentence of 15 years of imprisonment plus 5 years of post-release supervision. The Appellate Division ruled that the sentence was excessive and reduced it in the interest of justice to 12 years of imprisonment plus 5 years of post-release supervision.
- In [People v. Colon](#) (2021), Justice Mazzei imposed a sentence that the Appellate Division found excessive and reduced in the interest of justice from 25 years of imprisonment plus 5 years of post-release supervision to 23 years of imprisonment plus 5 years of post-release supervision.
- In [People v. Gomez](#) (2024), Justice Mazzei directed three prison terms to run consecutively. The Appellate Division found this sentence to be excessive and modified the judgment to require the terms to run concurrently, reducing the effective sentence from 25 years to 15 years.

Repeated Legal Errors in Sentencing

Justice Mazzei's record also includes at least six reversals to correct four categories of legal errors in sentencing: convictions entered on lesser-included offenses, an illegal post-release

⁹ [Judicial profile of Justice Timothy P. Mazzei](#), by Scrutinize.

supervision term, failure to follow required predicate-felony procedures, and failure to make findings required before imposing a sex-offender risk classification. Together, these errors show that the problems in Justice Mazzei's sentencing record are not limited to harsh outcomes; they also include repeated failures to apply basic sentencing rules that every judge presiding over criminal cases is expected to know and follow.

- In [*People v. McAvoy*](#) (2020), Justice Mazzei imposed an illegal 10-year term of post-release supervision. The Appellate Division reduced the term to the statutory maximum of 5 years.
- In [*People v. Gunn*](#) (2019), Justice Mazzei sentenced the defendant as a persistent violent felony offender without following the procedures required by statute. The Appellate Division vacated the sentence and remitted for resentencing.
- In [*People v. Sutton*](#) (2018), Justice Mazzei entered a conviction and sentence for criminal possession of a controlled substance in the seventh degree even though that offense was a lesser-included offense of the third-degree possession count. The Appellate Division vacated the conviction and the sentence and dismissed the lesser count.
- In [*People v. Stallone*](#) (2022), Justice Mazzei entered a conviction and sentence for burglary in the third degree even though that offense was a lesser-included offense of burglary in the second degree. The Appellate Division vacated the conviction and the sentence, dismissed the lesser count, and remitted the case for amended sentencing.
- In [*People v. Hardy*](#) (2022), Justice Mazzei entered a conviction and sentence for third-degree robbery even though that offense was a lesser-included offense of second-degree robbery. The Appellate Division vacated the conviction and the sentence and dismissed the lesser count.
- In [*People v. Hernandez*](#) (2023), Justice Mazzei designated the defendant a Level-3 sex offender without making the findings necessary to evaluate the defendant's request for a downward departure. The Appellate Division reversed Justice Mazzei's decision and granted the downward departure.

Other Procedural Errors

In [*People v. Flinn*](#) (2020), the defendant pleaded guilty but later brought a motion seeking to reverse his conviction, claiming that his lawyer failed to advise him about a potential defense before he pleaded guilty. Justice Mazzei denied the defendant's motion without holding a hearing. The Appellate Division reversed Justice Mazzei's decision and sent the case back for a hearing, finding that Justice Mazzei could not reject the claim without first giving the defendant a meaningful opportunity to prove it.

Appendix C: Justice Thomas E. Moran

Appellate courts have overturned Justice Moran's decisions 42 times: 27 outright reversals, seven modifications, and eight remittals. These errors span a decade and multiple categories of cases, suggesting not isolated mistakes, or mistakes within a short window of time, but instead recurring and persistent deficiencies in Justice Moran's performance of fundamental judicial responsibilities. They recur across numerous core areas of criminal law adjudication, including constitutional search-and-seizure doctrine, jury selection and instructions, sentencing, the right to counsel, the right to self-representation, and the right to present a defense.

Appearance of Bias in Favor of Law Enforcement

Justice Moran's record includes a pattern of reversals in which appellate courts found legal errors that favored law enforcement or the prosecution. Before becoming a judge, Justice Moran worked as a police officer and then spent nearly two decades as the Livingston County District Attorney. That background may provide valuable familiarity with criminal investigations and prosecutions, but a judge's role is fundamentally different: judges must neutrally enforce the law and the constitutional limits on police and prosecutorial power, not appear to operate as extensions of law enforcement.

Several categories of appellate findings raise concerns about the appearance of that neutrality. Suppression reversals are especially significant because they require judges to decide whether police complied with constitutional limits during searches, seizures, interrogations, and arrests. When those rulings are repeatedly reversed in the same direction, as in Justice Moran's case, they can create the appearance that the judge was too willing to accept police conduct as lawful. That concern is reinforced by a reversal in which Justice Moran allowed a juror to sit after she admitted a personal bias in favor of police testimony, and by two cases in which appellate courts ordered reassignment because Justice Moran appeared to have stepped out of the role of a disinterested judge and into the role of an interested participant. These reversals do not prove actual bias, but they create a serious appearance problem: courts must not only be fair; they must appear fair to the people whose liberty depends on them.

Pro-Police Bias in Jury Selection

- In [People v. Griffin](#) (2016), the Appellate Division unanimously reversed a conviction and ordered a new trial after Justice Moran refused to excuse a prospective juror who openly acknowledged bias in favor of police testimony. The juror stated that she would "probably go towards the officers," initially answered "No" when asked if she could be fair and impartial, and explained that her close relationships with police officers influenced her views. New York law requires judges to dismiss jurors whose answers raise substantial doubts about their impartiality unless they give unequivocal assurances that their bias can be set aside. The Appellate Division found that this juror made no such assurance

and so, by allowing the juror to remain on the panel, Justice Moran's error in allowing her to serve on the jury required a new trial.

Repeated Failures to Protect Constitutional Rights in Suppression Hearings

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. A judge's suppression errors implicate their understanding of fundamental constitutional law and their willingness to protect New Yorkers' constitutional rights.

In at least six cases, appellate courts have reversed Justice Moran on suppression grounds, dismissing the indictment outright in several. Justice Moran's reversals on suppression grounds is higher than 86% of judges in New York.¹⁰ Repeated appellate findings that searches, seizures, stops, frisks, identifications, and arrests were unlawful, and that convictions therefore could not stand, raise concerns about whether Justice Moran applied those constraints with the rigor the Constitution requires.

- In [People v. Howard](#) (2024), the Appellate Division found that Justice Moran wrongly refused to suppress evidence seized during a warrantless search. The appellate court reversed the conviction and dismissed the indictment.
- In [People v. Johnson](#) (2020), the Appellate Division held that Justice Moran wrongly denied a motion to suppress evidence taken from a vehicle after a traffic stop because the law enforcement officer lacked probable cause to search the vehicle. The appellate court vacated the guilty plea and dismissed the indictment.
- In [People v. Miller](#) (2020), the Appellate Division reversed a conviction—and used unusually forceful language in rejecting Justice Moran's reasoning. The appellate court found that Justice Moran had mischaracterized the sequence of an officer's frisk and misapplied the reasonable-suspicion standard, stating that the law does not permit police to stop and frisk any young Black man within a half-mile radius of a robbery based solely on a general description, and Justice Moran should have suppressed that evidence that resulted from the search.
- In [People v. Dortch](#) (2020), the Appellate Division found that Justice Moran wrongly admitted evidence obtained after police arrested the wrong person based on outstanding warrants that the prosecution failed to prove were valid. The appellate court reversed the conviction, suppressed the evidence, and dismissed the charges.
- In [People v. Clark](#) (2019), the Appellate Division found that Justice Moran wrongly denied a suppression motion by misapplying the search-incident-to-arrest exception. The appellate court sent the case back to Justice Moran to consider a different justification for the seizure.

¹⁰ [Judicial profile of Justice Thomas E. Moran](#), by Scrutinize.

- In [People v. Knox](#) (2019), the Appellate Division found that Justice Moran should not have allowed testimony about a hospital parking-lot showup identification because the procedure was improperly suggestive. The appellate court reversed the conviction, granted the motion to suppress the identification evidence, and sent the case back for a new hearing.

In three other suppression-related cases, appellate courts stopped short of deciding the ultimate suppression question, but still found that Justice Moran had failed to perform the gatekeeping role required before potentially unconstitutional evidence could be used:

- In [People v. Anderson](#) (2022), the Appellate Division held that Justice Moran failed to decide a key part of the suppression motion. The court sent the case back so that issue could be decided before the appeal could proceed.
- In [People v. Samuel](#) (2016), the Appellate Division held that Justice Moran should not have denied the defendant's mid-trial suppression motion without first holding a hearing. Because Justice Moran ruled on his own that the warrantless sweep had been justified, the appellate court sent the case back for the suppression hearing that Justice Moran should have held in the first instance.
- In [People v. Mitchell](#) (2016), the Appellate Division sent the case back to Justice Moran after finding that he erred by refusing to reopen a hearing to determine if the defendant's statements to an agent of law enforcement were made voluntarily and therefore were admissible at trial. The appellate court held that admitting the statements at trial was neither a reversible nor a harmless error, so it ordered Justice Moran to hold the suppression hearing that he should have held in the first instance.

Reversals Requiring Reassignment to Different Judges

The vast majority of times that appellate courts side with defendants on appeals and order new proceedings, they assign the new proceedings to the trial judges whose original rulings they overturned. Reassignments to different judges are extraordinarily rare: even when appellate courts find that trial judges have abused discretion, acted improperly, or otherwise committed reversible error, almost never do they reassign further proceedings to different judges.¹¹ For that reason, when an appellate court not only vacates a conviction but also directs that further proceedings occur before a different judge, the decision serves as a serious red flag, suggesting the possibility of judicial impropriety that goes beyond getting the law wrong. Justice Moran has had two reversals reassigned to be reheard by other judges, both within the past seven years, making his rate of reassignment higher than that of 99.78% of judges in the state.¹²

¹¹ Scrutinize's analysis of 49,830 appellate criminal decisions from 2007 to 2023 found that only 66 decisions reassigned an overturned case to a different judge—1% of all reversed and remitted cases, or 0.1% of all cases. See "[Reverse & Reassign: Red Flags of Improper Judicial Conduct](#)," by Scrutinize.

¹² [Judicial profile of Justice Thomas E. Moran](#), by Scrutinize.

- In [People v. Lawhorn](#) (2019) and [People v. Johnson](#) (2021), Justice Moran improperly helped negotiate codefendants' plea deals that required the codefendants to testify against the defendants in exchange for lighter sentences. In each of these cases, the prosecution conceded the defendant's contention that Justice Moran committed a reversible error, and the appellate court held that "by assuming the function of an interested party and deviating from [his] role as a neutral arbiter, [Justice Moran] denied defendant his due process right to '[a] fair trial in a fair tribunal.'"¹³ The appellate courts therefore reversed the defendants' convictions and granted them new trials—and ordered that the new trials be overseen by different judges.

Pattern of Excessive Sentencing

Trial judges possess broad discretion in determining punishment, so appellate courts very rarely modify sentencing decisions: From 2007 to 2023, the First and Second Departments of the Appellate Division overturned an average of only 18.5 felony sentences after trials per year for being excessive, representing only a tiny fraction of all felony convictions.¹⁴ When an appellate court reduces a sentence in the interest of justice, it effectively determines that the punishment the trial judge imposed exceeded what fairness and proportionality permit.

In at least four cases, appellate courts have found that Justice Moran imposed sentences that were so excessive that they violated the interest of justice, and they reduced these sentences by a combined 27.5 years. Both his number of excessive sentence findings and his total years reduced are among the highest in New York, putting him in the 98th and 97th percentile of all judges, respectively, by these metrics.¹⁵

- In [People v. Santana](#) (2025), the Appellate Division found the sentence that Justice Moran had imposed violated the interest of justice and therefore reduced it.
- In [People v. Casiano](#) (2025), the Appellate Division found the sentence that Justice Moran had imposed violated the interest of justice and therefore reduced it.
- In [People v. Ellison](#) (2015), the Appellate Division reduced Justice Moran's sentence from 20 years to life to 15 years to life, in the interest of justice. Three years later, in [People v. Ellison](#) (2018), the appellate court again modified the sentence, vacating Justice Moran's persistent-felony-offender adjudication and reducing the sentence to five-and-a-half to 11 years.

¹³ This language, which each appellate decision quotes, is originally from [People v. Towns](#), 33 NY3d 326, 333 (2019).

¹⁴ See "[Excessive Sentencers: Using Appellate Decisions to Enhance Judicial Transparency](#)," by Scrutinize and The Center on Race, Inequality, and the Law at NYU School of Law.

¹⁵ [Judicial profile of Justice Thomas E. Moran](#), by Scrutinize.

Failure to Protect Against Racially Discriminatory Jury Selection

In at least two cases, appellate courts found that Justice Moran failed to safeguard a defendant's right to a jury selected without racial discrimination. The *Batson* framework exists to protect that right: Once the prosecution makes a peremptory strike of a juror and the defense makes a *prima facie* allegation of discrimination, the prosecution must provide a race-neutral reason for having struck the juror and the judge must determine whether the provided reason was genuine or pretextual. Justice Moran cut that process short in both cases. Errors at this stage undermine the constitutional guarantee that a jury be selected without regard to race.

- In [People v. Singleton](#) (2021), the Appellate Division held that Justice Moran improperly compressed the three-step *Batson* inquiry after the prosecutor struck an African-American prospective juror. After the prosecutor offered a race-neutral explanation for the strike, the defense attorney attempted to argue that the explanation was pretextual. Justice Moran interrupted him and declared, "I ruled. There is no *Batson* issue." The Appellate Division ruled that this was an error and sent the case to Justice Moran so he could follow the required *Batson* steps, explaining that he may not merge the second and third steps of the *Batson* inquiry and instead must permit the defense an opportunity to address the prosecution's response before ruling.
- In [People v. Douglas](#) (2022), the Appellate Division reversed a conviction because Justice Moran wrongly denied a *Batson* objection during jury selection. The appellate court found that the prosecutor's stated reason for striking a prospective juror relied on comments the juror never made, and ordered a new trial.

Other Constitutional Errors

Appellate courts have reversed Justice Moran on at least seven occasions for other constitutional errors, including violations of the right to counsel, the right of self-representation, and the right to call witnesses. These cases implicate rights and protections at the core of the criminal justice system, so repeated appellate intervention in these areas raises serious questions about Justice Moran's legal judgment and commitment to equal justice under law.

- In [People v. Taylor](#) (2025), the Appellate Division reversed and ordered a new trial because Justice Moran denied the defendant's request to represent himself without conducting the required inquiry.
- In [People v. Jackson](#) (2023), the Appellate Division reversed and ordered a new trial because Justice Moran denied the defendant's request for new counsel without conducting the required inquiry into a potential conflict of interest.
- In [People v. Thomas](#) (2022), the Appellate Division ruled that Justice Moran wrongly denied the defendant's motion to submit a late alibi notice and barred the alibi witness

from testifying. Because that witness's testimony was important and the evidence of the defendant's guilt was not overwhelming, the appellate court reversed two of his convictions and ordered a new trial on those charges.

- In [*People v. Gaskin*](#) (2023), Justice Moran denied the defendant's motion to dismiss the case on speedy-trial grounds using the wrong legal test. The Appellate Division held the appeal and sent the case back so Justice Moran could decide, under the correct standard, whether the prosecution had validly claimed readiness for trial.
- In [*People v. Gardner*](#) (2016), Justice Moran conducted a *Sandoval* hearing—a pretrial hearing to determine which of a defendant's earlier criminal convictions the prosecution may bring up if the defendant decides to testify, which is required to ensure that defendants can make informed decisions about whether to take the witness stand—without the defendant present, as the law requires. The Appellate Division reversed the conviction and dismissed the indictment.
- In [*People v. Mirabella*](#) (2020), the Appellate Division found that Justice Moran should not have denied part of the defendant's motion without first holding a hearing. It reversed the order and sent the case back for a hearing on the claim that defense counsel failed to advise the defendant that the final decision whether to testify belonged to him alone.
- In [*People v. Snow*](#) (2020), the Appellate Division reversed a conviction and ordered a new trial because Justice Moran improperly barred a defense witness whose testimony was relevant to a central issue in the case.

Errors Undermining Jury Integrity

Verdicts rendered after jury trials derive their legitimacy from the jury process. Constitutional and statutory laws grant all defendants in criminal cases rights related to the jury process, from selection to instruction to deliberation. When judges fail to uphold these rights—for example by failing to seat a fair jury, improperly curtailing a defendant's ability to challenge a discriminatory juror strike, or giving jurors incorrect or misleading instructions—such errors fundamentally compromise the reliability of the resulting verdict. Jury errors like those in the cases below implicate the integrity of the jury process.

- In [*People v. Clark*](#) (2019), the Appellate Division reversed and ordered a new trial because it found that Justice Moran improperly denied for-cause challenges to prospective jurors who failed to provide the unequivocal assurances of impartiality required by law.
- In [*People v. Wood*](#) (2018), the Appellate Division reversed two counts and ordered a new trial because Justice Moran responded to a jury note by giving a supplemental instruction that neither answered the jury's question nor gave the defense an opportunity to address the new instruction before deliberations continued.

- In [People v. Ross](#) (2023), the Appellate Division reversed and ordered a new trial because Justice Moran improperly instructed the jury on constructive possession where the evidence did not support submitting that issue to the jury.
- In [People v. Patterson](#) (2019) and [People v. Parks](#) (2016), the Appellate Division reversed convictions and ordered new trials because Justice Moran improperly refused defense requests for lesser-included-offense instructions.
- In [People v. O'Dell](#) (2016) and [People v. O'Dell](#) (2016), the Appellate Division found that Justice Moran improperly instructed the jury on the “lawful discharge of duties” element, effectively relieving the prosecution of its burden to prove that requirement. The appellate court therefore reversed the co-defendants’ convictions and ordered a new trial.

Repeated Sentencing Errors

Justice Moran’s record includes at least seven appellate decisions correcting sentencing errors. Sentencing errors delay final resolution and consume court system resources. The frequency of these errors raises concerns about Justice Moran’s ability to correctly apply fundamental sentencing law.

- In [People v. Jarvis](#) (2019), [People v. Jarvis](#) (2020), and [People v. Polanco](#) (2020), Justice Moran failed to make required youthful-offender determinations, twice with the same defendant.
- In [People v. Harvey](#) (2019), Justice Moran incorrectly imposed post-release supervision where it was not authorized by law.
- In [People v. Jones](#) (2025), Justice Moran improperly treated an out-of-state conviction as a New York predicate felony without adequate proof of equivalence.
- In [People v. Mastowski](#) (2017), Justice Moran erroneously entered separate convictions on lesser-included charges that merged into the greater offense by operation of law.
- In [People v. Ruise](#) (2020), Justice Moran failed to exercise sentencing discretion, treating a previously discussed sentence as automatic rather than weighing the offense, the defendant’s circumstances, and the purposes of punishment.

Other Procedural Errors

In at least four cases, appellate courts have reversed Justice Moran for making various procedural errors, including around evidentiary rulings, charging instruments, and

post-conviction proceedings. These cases do not share a single legal thread but instead reflect a pattern of errors in judicial administration of the trial and post-conviction process. These decisions show repeated failures of basic judicial responsibilities: correctly applying evidentiary standards, staying within the bounds of a jury's verdict, and ensuring that convictions rest on legally sufficient proof.

- In [*People v. McFarland*](#) (2017), the Appellate Division overturned a conviction because Justice Moran rejected newly discovered evidence. The appellate court held that Justice Moran had applied the wrong legal standard in excluding the evidence, and it ordered him to hold new proceedings.
- In [*People v. Samuel*](#) (2017), the Appellate Division reversed one conviction and dismissed another because Justice Moran allowed the convictions without the required legal support. The defendant was erroneously convicted of a charge even though only his codefendants were indicted on it, leading the appellate court to vacate that conviction. In addition, the jury did not render a verdict on another charge of which the defendant was properly indicted, leading the appellate court to reverse the conviction and dismiss the charge.
- In [*People v. Alexander*](#) (2025), the Appellate Division found that Justice Moran should have dismissed a count that was not supported by legally sufficient evidence. The appellate court reversed the conviction and dismissed the charge.
- In [*People v. Walker*](#) (2018), following a bench trial, the Appellate Division found that the identification evidence that Justice Moran had relied upon to convict the defendant was too weak to support several convictions. The appellate court therefore reversed and dismissed those charges.

Appendix D: Justice Laura A. Ward

Appellate courts have reversed or modified Justice Ward's decisions 42 times: 13 outright reversals, 26 modifications, and three remittals. These errors span more than 15 years and multiple categories of cases, suggesting not isolated mistakes, or mistakes within a short window of time, but recurring deficiencies in Justice Ward's performance of fundamental judicial responsibilities. They recur across numerous core areas of criminal law adjudication, including constitutional search-and-seizure doctrine, sentencing, the right to counsel, the validity of guilty pleas and charging instruments, the public-trial guarantee, and jury instructions.

Repeated Failures to Protect Constitutional Rights

At least a dozen times, appellate courts have reversed Justice Ward for failing to protect fundamental constitutional rights, including violations of the right to counsel, the right to self-representation, the right to a public trial, plea and charging instruments, and wrongful suppression denials. These cases implicate rights and protections at the core of the criminal justice system, so repeated appellate intervention in these areas raise serious questions about Justice Ward's legal judgment and commitment to equal justice under the law.

Repeated Failures to Protect Constitutional Rights in Suppression Hearings

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. A judge's suppression errors implicate their understanding of fundamental constitutional law and their willingness to protect New Yorkers' constitutional rights.

In at least five cases, appellate courts have reversed Justice Ward on suppression grounds, dismissing the indictment outright in all of them. Justice Ward's reversals on suppression grounds is higher than 81% of judges in New York.¹⁶ Repeated appellate findings that searches, seizures, stops, frisks, identifications, and arrests were unlawful, and that convictions therefore could not stand, raise concerns about whether Justice Moran applied those constraints with the rigor the Constitution requires.

- In [People v. Small](#) (2025), the Appellate Division held that police lacked lawful grounds to question, seize, and frisk the defendant. The officer in question admitted that an item passed between the defendant and another party "could have been anything," but Justice Ward nevertheless denied the motion to suppress. Because the firearm found as a result of that unlawful search (and subsequent statements) should have been suppressed, the court reversed the conviction and dismissed the indictment.
- In [People v. Gonzalez](#) (2025), the Appellate Division held that a third party lacked the authority to consent to the search of the defendant's backpack. The officer in the case

¹⁶ [Judicial profile of Justice Laura A. Ward](#), by Scrutinize.

admitted that he was aware of the lack of consent present at the time of seizure. The appellate court ordered the evidence suppressed, reversed the conviction, and dismissed the indictment.

- In [*People v. Lamberty*](#) (2024), the Appellate Division reversed and dismissed the indictment after finding that the prosecution failed to establish that a warrantless search of a fanny pack was lawfully incident to arrest.
- [*People v. Hancock*](#) (2010): Justice Ward denied suppression of a forged driver's license recovered from the defendant's car following an illegal search, relying solely on the doctrine of inevitable discovery. The prosecution itself conceded the error on appeal because that exception categorically does not apply to evidence that is the direct product of an illegal search. The Appellate Division unanimously reversed and dismissed the indictment.
- [*People v. Gerard*](#) (2012): Justice Ward denied suppression of a weapon recovered after a street stop and frisk. The Appellate Division unanimously reversed, finding that while the officer had sufficient basis to approach and question the defendant, the circumstances did not rise to the reasonable suspicion required to justify a frisk. Because the frisk was unlawful, the appellate court held the weapon had to be suppressed and dismissed the indictment. Notably, on appeal the prosecution attempted to advance an alternative legal justification for the frisk that it had not raised at the suppression hearing, which the court declined to consider.

In one other suppression-related cases, the appellate court stopped short of deciding the ultimate suppression question, but still found that Justice Ward had failed to perform the gatekeeping role required before ruling that potentially unconstitutional evidence could be used:

- In [*People v. Hatchett*](#) (2021), the Appellate Division held that Justice Ward unlawfully denied suppression because she did so on a ground not raised by the prosecution. The court remitted the case for further proceedings.

Violations of the Right to Counsel & the Right to Self-Representation

- In [*People v. Jackson*](#) (2021), the Appellate Division found that Justice Ward permitted a defendant to represent himself without adequately ensuring that he understood the sentencing consequences of that decision and without sufficiently examining whether the defendant's mental health impaired his ability to make a valid waiver of counsel. The Appellate Division vacated the conviction, dismissed one count outright, reduced another charge, and ordered a new trial on the remaining counts.
- In [*People v. Zi*](#) (2019), the Appellate Division reversed and ordered a new trial after concluding that Justice Ward improperly permitted the defendant to represent himself

without conducting an adequate inquiry into whether his mental condition impaired his ability to knowingly and intelligently waive counsel.

Errors Related to Pleas and Charging Instruments

- In [*People v. Beach*](#) (2018), the Appellate Term found that Justice Ward had accepted a guilty plea after making multiple references to an unrelated charge and had not clarified that the defendant understood which charge he was pleading guilty to, thereby making it impossible to be confident that the defendant's plea was knowing, intelligent, and voluntary. The appellate court therefore reversed the conviction and dismissed the charges.
- In [*People v. McIntyre*](#) (2023), Justice Ward accepted a guilty plea even though the case had not gone through the legally required charging process. The defendant had never been properly presented for grand-jury action before being allowed to waive indictment and plead guilty. The Appellate Division held that the prosecution was proceeding under a charging document the law did not permit, reversed the conviction, and dismissed the case.
- In [*People v. Feliz*](#) (2009), Justice Ward accepted a waiver of indictment and guilty plea, even though the defendant had originally been charged with a class A felony and, at the time, New York law did not allow for the prosecution of such charges through waiver of indictment and a court information. The Appellate Division reversed the conviction, vacated the waiver and the guilty plea, dismissed the superior court information, and remitted the case for further proceedings.
- In [*People v. Corporan*](#) (2016), the Appellate Division held the appeal in abeyance and remitted the case because the defendant had not been properly advised during plea proceedings that his guilty plea could result in deportation. Consistent with New York's statutory requirements governing plea colloquies, the appellate court ordered that the defendant be given an opportunity to seek to vacate his plea upon a showing that he likely would not have pleaded guilty had the required warning been given.
- In [*People v. De Los Santos*](#) (2018), the Appellate Division again found that the required immigration warning had not been properly administered during plea proceedings. Because Justice Ward failed to advise the defendant that if he was not a United States citizen he could be deported as a result of his plea, as required under New York and federal constitutional law, the appellate court held the appeal in abeyance and remitted the case to permit the defendant to seek to vacate his guilty plea.

Violation of Right to a Public Trial

- In [*People v. Ruffin*](#) (2019), the Appellate Division found that members of the defendant's family were excluded from a significant portion of the trial without the specific findings

required to justify such a closure, violating the defendant's constitutional right to a public trial. The appellate court therefore reversed the conviction and ordered a new trial.

Jury Instruction Errors

Verdicts rendered after jury trials derive their legitimacy from the jury process. Jury instructions provide the legal framework that governs the jury's consideration of the charges and the evidence, so providing correct jury instructions is among a judge's most fundamental responsibilities. When a judge fails to correctly instruct the jury, any resulting verdict is compromised. In at least three cases, appellate courts vacated convictions from trials Justice Ward had presided over because she had made errors when instructing the juries.

- In [People v. Lee](#) (2014) and [People v. Burgess](#) (2015), appeals stemming from the same trial of co-defendants, the Appellate Division vacated the co-defendants' convictions after finding that Justice Ward gave the jury an erroneous answer to a question concerning criminal intent. When jurors asked whether a defendant could be guilty of intentional assault if a firearm discharged accidentally before the defendant intended to shoot, Justice Ward incorrectly answered "yes." The Appellate Division held that this instruction misstated a fundamental principle of criminal law, explaining: "It is a well-established rule of law that the intent to commit a crime must be present at the time the criminal act takes place."¹⁷ Because the jury was incorrectly instructed on the intent element of the offense, the court vacated the convictions and remitted both cases for further proceedings.
- In [People v. Breckenridge](#) (2018), the Appellate Division vacated a conviction after finding that Justice Ward's jury instructions failed to explain that a finding of self-defense on an attempted-murder charge would require acquittal to an assault charge as well. The appellate court concluded that it was impossible to determine whether the jury had acquitted the defendant of attempted murder because it determined that he had acted in self-defense. Because Justice Ward's instructions permitted the jury to convict on the assault charge without properly resolving that issue, the appellate court vacated the conviction and ordered a new trial.

Repeated Sentencing Errors

Justice Ward's record contains at least 11 appellate decisions correcting sentencing errors. Sentencing errors delay final resolution and consume court system resources. The frequency of these errors raises concerns about Justice Ward's ability to correctly apply fundamental sentencing law.

¹⁷ This language, which is quoted in the *Lee* decision, is originally from [People v. Rivera](#), 184 AD2d 288, 291 (1st Dept 1992). The *Burgess* decision says, "Defendant is entitled to reversal of his assault conviction for the reasons stated on the codefendant's appeal."

- In [People v. Holguin](#) (2025) and [People v. Collado](#) (2017), Justice Ward imposed unlawful probation terms, conditions, and/or length.
- In [People v. Toscano](#) (2009), Justice Ward imposed unlawful postrelease-supervision terms.
- In [People v. Johnson](#) (2025), Justice Ward incorrectly designated the defendant a sex-offender where such designation was unlawful.
- In [People v. Olivieri](#) (2023), Justice Ward imposed orders of protection that exceeded statutory limits.
- In [People v. Jaffar](#) (2021), Justice Ward failed to ensure that jail and probation terms ran concurrently when required by law.
- In [People v. Jordan](#) (2020), Justice Ward imposed sentences exceeding the lawful maximum.
- In [People v. Duma](#) (2017) and [People v. Rodriguez](#) (2019), Justice Ward failed to make required youthful-offender determinations.
- In [People v. Ramos](#) (2016) and [People v. Nelson](#) (2015), Justice Ward improperly treated out-of-state convictions as New York predicate felonies.
- In [People v. Lee](#) (2014), Justice Ward failed to make an adequate sentencing record.

Pattern of Excessive Sentencing

Trial judges possess broad discretion in determining punishment, so appellate courts very rarely modify sentencing decisions: From 2007 to 2023, the First and Second Departments of the Appellate Division overturned an average of only 18.5 felony sentences after trials per year for being excessive, representing only a tiny fraction of all felony convictions.¹⁸ When an appellate court reduces a sentence in the interest of justice, it effectively determines that the punishment the trial judge imposed exceeded what fairness and proportionality permit.

In at least eight cases, appellate courts have found that Justice Ward imposed sentences that were so excessive that they must be reduced in the interest of justice. These decisions span more than a decade, several of the reductions were substantial, and they involve multiple offense categories, showing that the findings were not isolated occurrences.

¹⁸ See “[Excessive Sentencers: Using Appellate Decisions to Enhance Judicial Transparency](#),” by Scrutinize and The Center on Race, Inequality, and the Law at NYU School of Law.

- In [*People v. Colon*](#) (2018), the Appellate Division reduced the sentence from four years' imprisonment to one and one-half years.
- In [*People v. DeFort*](#) (2007), the Appellate Division reduced concurrent sentences that carried a maximum length of nine years to a maximum length of six years.
- In [*People v. Norfleet*](#) (2012), the Appellate Division reduced concurrent 12-year sentences to concurrent nine-year sentences.
- In [*People v. Christianson*](#) (2018), the Appellate Division reduced concurrent eight-year sentences to concurrent six-year sentences.
- In [*People v. Quince*](#) (2015), the Appellate Division reduced a sentence of two to four years to one-and-a-half to three years.
- In [*People v. Natal*](#) (2012), the Appellate Division reduced an 18-year sentence to 15 years.
- In [*People v. Tavaréz*](#) (2009), the Appellate Division reduced a sentence of four to eight years to three to six years.
- In [*People v. Peak*](#) (2008), the Appellate Division reduced a sentence of four-and-a-half to nine years to three-and-a-half to seven years.

Evidentiary Errors

- In [*People v. McGhee*](#) (2019), the Appellate Division held that Justice Ward improperly admitted identification evidence and hearsay testimony at trial and later wrongly denied a motion to vacate the conviction after additional undisclosed evidence came to light. The appellate court reversed the conviction and ordered a new trial.