

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Serrano v. State of New York

Serrano, 2025 NY Slip Op 06745 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2025) · No. 2021-05302 · Decided December 3, 2025

SUMMARY

The Appellate Division, Second Department affirmed the Court of Claims’ denial of Carlos Serrano’s motion for summary judgment on liability in his claim for damages for unjust conviction and imprisonment under Court of Claims Act § 8-b. The court held that Serrano did not establish his innocence by clear and convincing evidence because the submitted proof was equivocal and open to opposing inferences. The court also noted that summary judgment is inappropriate where credibility determinations are required.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Francesca E. Connolly, J.P.; William G. Ford, J.; Helen Voutsinas, J.; Carl J. Landicino, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	December 3, 2025
DOCKET	2021-05302
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant appealed from an order of the Court of Claims denying his motion for summary judgment on liability in an unjust-conviction-and-imprisonment claim under Court of Claims Act § 8-b.
STANDARD OF REVIEW	Summary judgment must be denied where resolution requires credibility determinations; the claimant also had to establish prima facie, by clear and convincing evidence, that he was innocent of the charged crime.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Carlos Serrano v. State of New York

TOPICS

summary judgment

remedies

appellate procedure

civil procedure

PRACTICE AREAS

civil procedure

New York unjust conviction and imprisonment claims

appellate procedure

QUESTIONS PRESENTED

1. Whether the claimant was entitled to summary judgment on liability in his Court of Claims Act § 8-b unjust-conviction claim.
2. Whether the claimant established by clear and convincing evidence that he did not commit any of the acts charged in the accusatory instrument.
3. Whether summary judgment was precluded because the submitted proof was equivocal or required credibility determinations.

HOLDINGS

1. The claimant was not entitled to summary judgment because he failed to establish prima facie, by clear and convincing evidence, that he was innocent of the crime.
2. Summary judgment was properly denied because the proof did not conclusively establish innocence and credibility determinations were implicated.

KEY QUOTATIONS

*"Pursuant to Court of Claims Act § 8-b, any person convicted and subsequently imprisoned for one or more felonies or misdemeanors may present a claim against the State, provided, inter alia, that the claimant proves, by clear and convincing evidence, that he or she 'did not commit any of the acts charged in the accusatory instrument'" (*1)*

*"Thus, to meet [his [*2]or] her burden of presenting clear and convincing evidence of [his or] her innocence, claimant had to demonstrate that the evidence makes it highly probable that what [he or she] claims is what actually happened with said evidence being neither equivocal nor open to opposing presumptions'" (*1)*

*"Moreover, "[w]here credibility determinations are required, summary judgment must be denied'" (*1)*

FACTUAL BACKGROUND

Serrano was convicted on October 30, 2013, of attempted assault in the first degree arising from a stabbing outside a Brooklyn nightclub in September 2012. The Appellate Division reversed the conviction because the verdict was against the weight of the evidence. In his subsequent claim for damages under Court of Claims Act § 8-b, Serrano submitted proof that the court found equivocal and open to opposing inferences concerning his innocence.

PROCEDURAL HISTORY

Serrano was convicted of attempted assault in the first degree, but this Court reversed the judgment because the verdict was against the weight of the evidence. He then brought a Court of Claims Act § 8-b claim against the State and, after discovery, moved for summary judgment on liability. The Court of Claims denied the motion, and the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Serrano, 157 A.D.3d 971, 972
- Vasquez v. State of New York, 263 A.D.2d 539, 539
- Reed v. State of New York, 78 N.Y.2d 1, 10-11
- Turner v. State of New York, 50 A.D.3d 890, 893
- David W. v. State of New York, 27 A.D.3d 111, 116
- Ivey v. State of New York, 80 N.Y.2d 474, 479
- Salce v. State of New York, 184 A.D.3d 1037, 1039
- Alexandre v. State of New York, 168 A.D.2d 472, 472
- Quino v. Heburchnaya I.S., Inc., 230 A.D.3d 601, 604
- Bank of N.Y. Mellon v. Gordon, 171 A.D.3d 197, 201

OPINION

Serrano v. State of New York 2025 NY Slip Op 06745

PER CURIAM.

Serrano v State of New York (2025 NY Slip Op 06745) Serrano v State of New York 2025 NY Slip Op 06745 Decided on December 3, 2025 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on December 3, 2025

SUPREME COURT OF THE STATE OF NEW YORK

Appellate Division, Second Judicial Department FRANCESCA E. CONNOLLY, J.P.

WILLIAM G. FORD

HELEN VOUTSINAS

CARL J. LANDICINO, JJ. 2021-05302

[*1]Carlos Serrano, appellant, v State of New York, respondent. (Claim No. 131059) Cochran Firm (Joshua Annenberg, New York, NY, of counsel), for appellant. Letitia James, Attorney General, New York, NY (Ester Murdukhayeva and Daniel Magy of counsel), for respondent. DECISION & ORDER In a claim to recover damages for unjust conviction and imprisonment pursuant to Court of Claims Act § 8-b, the claimant appeals from an order of the

Court of Claims (David A. Weinstein, J.), dated May 28, 2021. The order denied the claimant's motion for summary judgment on the issue of liability. ORDERED that the order is affirmed, with costs. By judgment rendered October 30, 2013, the claimant was convicted of attempted assault in the first degree in connection with a stabbing incident that occurred outside a Brooklyn nightclub in September 2012. The judgment was reversed by this Court on the ground that the verdict of guilt was against the weight of the evidence (see *People v Serrano* , 157 AD3d 971 , 972). The claimant commenced this claim against the defendant, State of New York, to recover damages for unjust conviction and imprisonment pursuant to Court of Claims Act § 8-b. Following discovery, the claimant moved for summary judgment on the issue of liability. The State opposed the motion. In an order dated May 28, 2021, the Court of Claims denied the claimant's motion. The claimant appeals. "Pursuant to Court of Claims Act § 8-b, any person convicted and subsequently imprisoned for one or more felonies or misdemeanors may present a claim against the State, provided, inter alia, that the claimant proves, by clear and convincing evidence, that he or she 'did not commit any of the acts charged in the accusatory instrument'" (*Vasquez v State of New York* , 263 AD2d 539, 539 , quoting Court of Claims Act § 8-b[5][c]; see *Reed v State of New York* , 78 NY2d 1, 11 ; *Turner v State of New York* , 50 AD3d 890, 893). "The requirements imposed by Court of Claims Act § 8-b are to be strictly construed" (*Vasquez v State of New York* , 263 AD2d at 539 ; see *Reed v State of New York* , 78 NY2d at 11 ; *David W. v State of New York* , 27 AD3d 111, 116). "[T]he linchpin of the statute is innocence" (*Ivey v State of New York* , 80 NY2d 474, 479 [internal quotation marks omitted]). "[P]utting the burden of proof on claimant places one in a difficult position of proving a negative" (*Reed v State of New York* , 78 NY2d at 10 [internal quotation marks omitted]; see *David W. v State of New York* , 27 AD3d at 116). "Thus, to meet [his [*2]or] her burden of presenting clear and convincing evidence of [his or] her innocence, claimant had to demonstrate that the evidence makes it highly probable that what [he or she] claims is what actually happened with said evidence being neither equivocal nor open to opposing presumptions" (*Salce v State of New York* , 184 AD3d 1037, 1039 [citations and internal quotation marks omitted]; see *Reed v State of New York* , 78 NY2d at 10 ; *Alexandre v State of New York* , 168 AD2d 472, 472). Moreover, "[w]here credibility determinations are required, summary judgment must be denied" (*Quino v Heburechnaya I.S., Inc.* , 230 AD3d 601 , 604 [internal quotation marks omitted]; see *Bank of N.Y. Mellon v Gordon* , 171 AD3d 197 , 201). Here, the Court of Claims properly denied the claimant's motion for summary judgment on the issue of liability because he failed to establish, prima facie, that he was innocent of the crime by clear and convincing evidence (see *Reed v State of New York* , 78 NY2d at 11 ; *Turner v State of New York* , 50 AD3d at 893 ; *Vasquez v State of New York* , 263 AD2d at 539). The proof the claimant submitted, being equivocal and open to opposing inferences, did not meet his burden of proof (see *Reed v State of New York* , 78 NY2d at 10 ; *Salce v State of New York* , 184 AD3d at 1039 ; *Alexandre v State of New York* , 168 AD2d at 472). The claimant's remaining contention is

without merit. CONNOLLY, J.P., FORD, VOUTSINAS and LANDICINO, JJ., concur. ENTER:
Darrell M. Joseph Clerk of the Court

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