

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

People v. Shaver

2026 NY Slip Op 02895 (N.Y. Ct. App. 2026) · No. CR-25-0404 · Decided May 7, 2026

SUMMARY

The Appellate Division, Third Department reversed Nathan Shaver's convictions for three counts of first-degree sexual abuse and remitted for a new trial. The court held that County Court improperly denied Shaver's request for a brief adjournment to investigate a belatedly disclosed alibi-rebuttal witness, and that the error was not harmless. The court also addressed certain evidentiary issues in anticipation of retrial, including the admission of a campground photograph and bar video recordings.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Corcoran, J.; Clark, J.P.; Aarons, J.; Ceresia, J.; McShan, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	May 7, 2026
DOCKET	CR-25-0404
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed from a County Court judgment entered after a jury convicted him of three counts of first-degree sexual abuse and the court imposed consecutive prison terms.
STANDARD OF REVIEW	Legal sufficiency was reviewed by viewing the evidence in the light most favorable to the People and determining whether a valid line of reasoning and permissible inferences supported the elements beyond a reasonable doubt. Weight of the evidence was reviewed in a neutral light, with deference to the jury's credibility determinations after determining that a contrary verdict would not have been unreasonable. The trial court's handling of belatedly disclosed rebuttal testimony and adjournment was reviewed for abuse of discretion, subject to the statutory adjournment requirement. Evidentiary rulings were reviewed for abuse of discretion.
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QUESTIONS PRESENTED

1. Whether the evidence was legally sufficient to support the three first-degree sexual abuse convictions.
2. Whether the convictions were against the weight of the evidence.
3. Whether County Court properly permitted the People to call a belatedly disclosed alibi-rebuttal witness for good cause.
4. Whether County Court was required to grant defendant an adjournment of up to three days before allowing the belatedly disclosed rebuttal witness to testify.
5. Whether the denial of the adjournment was harmless and, if not, whether the error required reversal of all three jointly tried convictions under spillover analysis.
6. Whether, in anticipation of a new trial, a campground photograph was relevant and whether bar videos were adequately authenticated.

HOLDINGS

1. The evidence was legally sufficient to establish the sexual contact element involving the child victim and defendant's presence at the campground during the 2019 incidents.
2. The adult victim's testimony that she was asleep or intoxicated and unconscious when sexual contact began was legally sufficient to permit the jury to find that she was physically helpless and unable to consent.
3. The convictions were supported by the weight of the evidence because the jury was entitled to credit the victims' testimony and reject defendant's alibi despite credibility challenges and delayed reporting.
4. County Court acted within its discretion by permitting the People's belatedly disclosed rebuttal witness to testify because the record did not show that the delayed disclosure was willful or intended to obtain a strategic advantage.
5. When a trial court permits belatedly disclosed alibi-rebuttal testimony, CPL 250.20 requires it, upon application by either party, to grant an adjournment of no more than three days before the testimony is received.
6. The denial of the statutory adjournment was not harmless, and the error required reversal of all three convictions because there was a reasonable possibility that the rebuttal evidence meaningfully influenced the verdict on the 2018 count.

7. The campground photograph was properly admitted because it was relevant to show the adult victim's presence at the campsite and to corroborate testimony that defendant joined the family on camping trips.
8. The bar videos were properly admitted because the rebuttal witness authenticated them by testifying that she made them and that they accurately depicted what she observed; uncertainty caused by the re-recording process affected weight rather than admissibility.

KEY QUOTATIONS

*“but before doing so, it must, upon application of the [P]eople [or the defendant], grant an adjournment not in excess of three days” ([*6])*

*“Given that proof of defendant's guilt without the rebuttal witness' testimony was "not overwhelming," the error cannot be deemed harmless” ([*6])*

*“if there is a reasonable possibility that the jury's decision to convict on the tainted counts influenced its guilty verdict on the remaining counts in a meaningful way, reversal is required” ([*7])*

FACTUAL BACKGROUND

Shaver was accused of sexually abusing an adult victim after a 2018 high school reunion when she was intoxicated and during a 2019 camping trip while she was asleep, as well as sexually abusing the adult victim's nine-year-old niece during the camping trip. The victims reported the conduct in 2023 after the child disclosed the abuse, and the adult victim then recalled the two incidents involving her. Shaver presented an alibi for the 2019 incidents through his former girlfriend and social-media photographs; the prosecution called the former girlfriend's friend as a rebuttal witness after trial had begun, without a formal rebuttal-witness notice.

PROCEDURAL HISTORY

Defendant was indicted on three counts of first-degree sexual abuse and convicted after a jury trial in St. Lawrence County Court. County Court imposed three consecutive determinate five-year prison terms, followed by 10 years of postrelease supervision. On appeal, the Appellate Division held that the trial court improperly denied defendant's requested adjournment to investigate a belatedly disclosed alibi-rebuttal witness and reversed the convictions for a new trial on all counts.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment is reversed on the law, and the matter is remitted to the County Court of St. Lawrence County for a new trial on all counts.

CASES CITED

- People v. Swartz, 235 AD3d 1098, 1099, 1102 (3d Dept 2025)

- People v. Benton, 243 AD3d 1118, 1119 (3d Dept 2025)
- People v. Hatch, 230 AD3d 908, 909-910, 912 (3d Dept 2024), lv denied 42 NY3d 1020 (2024)
- People v. Dunham, 172 AD3d 1462, 1464 (3d Dept 2019), lv denied 33 NY3d 1068 (2019)
- People v. Njoku, 218 AD3d 1047, 1050 (3d Dept 2023), lv denied 40 NY3d 1093 (2024)
- People v. Gomez, 244 AD3d 1382, 1384-1385 (3d Dept 2025), lv denied 45 NY3d 936 (2026)
- People v. Crevelle, 125 AD3d 995, 996-998 (2d Dept 2015)
- People v. Thomas, 208 AD3d 1617, 1620 (4th Dept 2022)
- People v. Perkins, 166 AD3d 1285, 1287 (3d Dept 2018), lv denied 33 NY3d 980 (2019)
- People v. Holmes, 82 AD2d 61, 62-63 (3d Dept 1981)
- People v. Buono, 121 Misc 2d 854, 859 (Sup Ct, Bronx County 1983), affd 131 AD2d 981 (1987), lv denied 70 NY2d 798 (1987)
- People v. Cade, 138 AD2d 388, 388 (2d Dept 1988), affd 73 NY2d 904 (1989)
- Wardius v. Oregon, 412 U.S. 470 (1973)
- People v. Allen, 32 NY3d 611, 620 (2018)
- People v. Morales, 20 NY3d 240, 250 (2012)
- People v. Baghai-Kermani, 84 NY2d 525, 532 (1994)
- People v. Casatelli, 204 AD3d 1092, 1096-1097 (3d Dept 2022), lv denied 38 NY3d 1132
- People v. McDaniel, 81 NY2d 10, 20 (1993)
- Matter of Zielinski v. Venetozzi, 35 NY3d 1082, 1087 (2020)
- People v. Hardy, 26 NY3d 245, 249 (2015)
- People v. Butts, 244 AD3d 1479, 1487 (3d Dept 2025), lv denied ___ NY3d ___ (Mar. 11, 2026)
- Matter of M.S. [M.H.], 2026 NY Slip Op 00825, *9 (2026)
- People v. Patterson, 93 NY2d 80, 84 (1999)
- People v. Colon, 243 AD3d 1340, 1342 (4th Dept 2025), lv denied 45 NY3d 936 (2026)