

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

Hunold v. City of New York

Hunold, 2026 NY Slip Op 02153 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Index No. 156864/23; Appeal No. 6078; Case No. 2025-00736 · Decided April 9, 2026

SUMMARY

The New York Appellate Division, First Department, affirmed dismissal of a former NYPD officer's claims arising from the denial of his religious accommodation request to the City's COVID-19 vaccination mandate. The court held that the claims were barred by collateral estoppel and res judicata based on a prior CPLR article 78 proceeding and, alternatively, failed to state causes of action. The court also addressed the non-suable status of the NYPD, the lack of an actual adverse employment action, the failure of the breach of contract and intentional infliction of emotional distress claims, and the mootness of declaratory relief.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Kennedy, J.P.; Gesmer, J.; Mendez, J.; Pitt-Burke, J.; Rosado, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	April 9, 2026
DOCKET	Index No. 156864/23; Appeal No. 6078; Case No. 2025-00736
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from a Supreme Court, New York County judgment dismissing his amended complaint with prejudice and bringing up for review an order granting defendants' motion to dismiss.
STANDARD OF REVIEW	Whether the amended complaint stated a cause of action and whether dismissal was warranted on res judicata, collateral estoppel, mootness, and related grounds.
PRECEDENTIAL VALUE	published
PARTIES	Jeffrey Hunold v. The City of New York, New York City Police Department, Michael Melocowsky, Eric Eichenholtz, Tanya Meisenholder

TOPICS

res judicata religious discrimination mootness standing appellate procedure

PRACTICE AREAS

civil procedure employment law religious discrimination municipal law constitutional law

QUESTIONS PRESENTED

1. Whether Hunold's statutory religious-discrimination and cooperative-dialogue claims were barred by collateral estoppel and res judicata because the same underlying accommodation denial had been rejected in the prior article 78 proceeding.
2. Whether the NYPD was a suable entity.
3. Whether the amended complaint adequately pleaded religious discrimination, including a bona fide religious belief conflicting with the vaccine mandate and an adverse employment action.
4. Whether Hunold's breach-of-contract claim failed for lack of standing because he was a union employee.
5. Whether the intentional-infliction-of-emotional-distress claim was barred against government bodies and insufficiently pleaded.
6. Whether the aiding-and-abetting claim failed absent an underlying State or City Human Rights Law violation.
7. Whether the declaratory-relief claim was moot after the City rescinded the COVID-19 vaccination mandate.

HOLDINGS

1. The State and City Human Rights Law claims were barred by collateral estoppel and res judicata because the prior article 78 proceeding determined that the denial of Hunold's religious-accommodation request was rationally motivated by nondiscriminatory reasons and the later claims arose from the same factual transaction.
2. The complaint was properly dismissed as against the NYPD because the NYPD is a non-suable agency of the City of New York.
3. The discrimination claims failed to state a cause of action because Hunold did not allege what his religious beliefs were beyond the assertion that he was created in God's image or that those beliefs conflicted with the vaccine mandate.
4. Hunold failed to plead an adverse employment action because the threatened leave without pay and termination never occurred; he applied for vested retirement instead, making the alleged harm speculative.
5. Hunold's breach-of-contract claim failed for lack of standing because a union employee generally may not independently enforce a collective bargaining agreement absent a breach of the union's duty of fair representation or a contractual authorization permitting individual enforcement.

6. The IIED claim was properly dismissed because such claims against government bodies are barred as a matter of public policy and the complaint did not allege conduct sufficiently outrageous to support the tort.
7. The aiding-and-abetting claim failed because there was no underlying violation of the State or City Human Rights Law.
8. The claim for declaratory relief was moot because the City rescinded the COVID-19 vaccination mandate in February 2023.

KEY QUOTATIONS

*“Res judicata, which "prevents relitigation between the same parties, or those in privity with them, of a cause of action arising out of the same transaction or series of transactions that either were raised or could have been raised in the prior proceeding," also applies” (*3)*

*“A union employee "may not independently enforce the collective bargaining agreement unless (1) the union breached its duty of fair representation or (2) the contract permits it"” (*4)*

*“against government bodies are barred as a matter of public policy” (*4)*

FACTUAL BACKGROUND

Jeffrey Hunold was an NYPD police officer who sought a religious accommodation from the New York City Department of Health and Mental Hygiene Commissioner's October 20, 2021 COVID-19 vaccination requirement. He requested exemption from vaccination in favor of masking and weekly testing, but the NYPD denied the request using a form identifying insufficient or missing religious documentation and no demonstrated history of vaccine or medicine refusal. After an administrative appeal was denied and he was notified that he would be placed on leave without pay and terminated if he refused vaccination, Hunold applied for vested retirement instead. The City later rescinded the vaccination mandate in February 2023.

PROCEDURAL HISTORY

Hunold, an NYPD police officer, sought a religious accommodation from the City's COVID-19 vaccination requirement and challenged the denial in a CPLR article 78 proceeding. Supreme Court denied the article 78 petition, finding that the denial was rationally supported by nondiscriminatory reasons. While that proceeding was pending, Hunold commenced a plenary action asserting statutory, constitutional, tort, contract, and related claims. Supreme Court dismissed the amended complaint, and the Appellate Division unanimously affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Marsteller v City of New York, 217 AD3d 543, 545 (1st Dept 2023), appeal dismissed and lv denied, 41 NY3d 960 (2024)
- Troy v City of New York, 160 AD3d 410, 411 (1st Dept 2018)

- Parker v Blauvelt Volunteer Fire Co., 93 NY2d 343, 349 (1999)
- Rosenthal v Roosevelt Is. Operating Corp., 221 AD3d 551, 551-552 (1st Dept 2023)
- Rojas v Romanoff, 186 AD3d 103, 108 (1st Dept 2020)
- Thomas v City of New York, 239 AD2d 180, 180 (1st Dept 1997)
- Kola v City of New York, 245 AD3d 513, 514 (1st Dept 2026)
- Crookendale v New York City Health & Hosps. Corp., 175 AD3d 1132, 1132 (1st Dept 2019)
- Matter of Dourdounas v City of New York, 44 NY3d 34, 39 (2025)
- Dillon v City of New York, 261 AD2d 34, 41 (1st Dept 1999)
- Howell v New York Post Co., 81 NY2d 115, 122 (1993)
- Chanko v American Broadcasting Cos. Inc., 27 NY3d 46, 57 (2016)
- Weir v Montefiore Med. Ctr., 208 AD3d 1122, 1123 (1st Dept 2022), lv denied, 39 NY3d 911 (2023)
- Matter of New York City Mun. Labor Comm. v Adams, 222 AD3d 437, 438 (1st Dept 2023)

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