

COURT OF APPEALS OF THE STATE OF NEW YORK

Granath v. Monroe County

2026 NY Slip Op 01586 · No. No. 17 · Decided March 19, 2026

SUMMARY

The New York Court of Appeals affirmed summary judgment for Monroe County, the Monroe County Sheriff, and Deputy Sheriff Khadija Fong in an action arising from a collision at an intersection. The Court held that, even assuming Deputy Fong failed to use an air horn or siren, failed to call in a required emergency code, or proceeded with an obstructed view, her conduct did not constitute reckless disregard under Vehicle and Traffic Law § 1104. Judge Rivera dissented, concluding that disputed factual and credibility issues required a trial.

CASE DETAILS

COURT	Court of Appeals of the State of New York
WRITING FOR THE COURT	Chief Judge Wilson; Judge Garcia; Judge Singas; Judge Cannataro; Judge Troutman; Judge Halligan; Judge Rivera
JURISDICTION	New York Court of Appeals
DECIDED	March 19, 2026
DOCKET	No. 17
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed as of right from an Appellate Division order affirming Supreme Court's grant of defendants' motion for summary judgment dismissing the complaint.
STANDARD OF REVIEW	Summary judgment requires the movant to make a prima facie showing of entitlement to judgment as a matter of law by demonstrating the absence of material issues of fact; the burden then shifts to the opposing party. The facts must be viewed in the light most favorable to the nonmoving party.
PRECEDENTIAL VALUE	published
PARTIES	Gary A. Granath, Lorraine Granath v. Monroe County, Monroe County Sheriff, Deputy Sheriff Khadija Fong

TOPICS

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QUESTIONS PRESENTED

1. Whether defendants were entitled to summary judgment because Deputy Fong's conduct, even viewed in the light most favorable to plaintiffs, did not rise to the reckless-disregard standard under Vehicle and Traffic Law § 1104.
2. Whether disputed evidence concerning Fong's use of warning signals, failure to call in a department emergency code, and potentially obstructed view created a triable issue of fact.

HOLDINGS

1. Defendants were entitled to summary judgment because, even assuming Deputy Fong failed to use her siren or air horn, failed to call in a Code 77, and failed to observe southbound traffic because of an obstructed view or failure to look, her conduct did not constitute reckless disregard for the safety of others.
2. The disputed evidence did not raise a material triable issue of fact sufficient to defeat summary judgment.
3. An internal departmental policy requiring audible warning signals could not serve as a basis for imposing liability where it went beyond the applicable statutory standard of care.

KEY QUOTATIONS

*“for liability to be predicated upon a violation of Vehicle and Traffic Law § 1104, there must be evidence that the actor has intentionally done an act of an unreasonable character in disregard of a known or obvious risk that was so great as to make it highly probable that harm would follow and has done so with conscious indifference to the outcome” (*3)*

*“taken together with the actions she undisputably did take—slowing down, stopping, activating her emergency lights and proceeding only once she observed northbound traffic yield to her—we cannot conclude that Deputy Fong, with “conscious indifference to the outcome,” “reckless[ly] disregard[ed] . . . a highly probable risk of harm”” (*4)*

*“Although the Granaths contend that internal MCSD policy required Deputy Fong to use audible signals while crossing the intersection, where “internal guidelines go beyond the [applicable] standard of . . . care [they] cannot serve as a basis for imposing liability”” (*5)*

FACTUAL BACKGROUND

Deputy Sheriff Khadija Fong was driving an emergency vehicle to an unrelated motor-vehicle accident when she approached an intersection against a red light and collided with the Granaths' vehicle, which had a green light. Fong slowed, stopped at least once, waited for northbound traffic to yield, and activated her emergency lights,

but the parties disputed whether she used a siren or air horn, whether she called in the department's emergency-operation code, and whether her view of southbound traffic was obstructed. The Court of Appeals assumed the disputed facts in the Granaths' favor but concluded that Fong's conduct did not constitute reckless disregard for the safety of others.

PROCEDURAL HISTORY

The Granaths sued Monroe County, the Monroe County Sheriff, and Deputy Sheriff Khadija Fong for injuries arising from a collision at an intersection. Supreme Court granted defendants summary judgment and dismissed the complaint. The Appellate Division, Fourth Department, affirmed, concluding that defendants made a prima facie showing and that plaintiffs failed to raise a triable issue concerning reckless disregard. The Court of Appeals affirmed the Appellate Division's order.

DISPOSITION

affirmed

CASES CITED

- *Nellenback v. Madison County*, 44 NY3d 329, 334 (2025)
- *Bazdaric v. Almah Partners LLC*, 41 NY3d 310, 316 (2024)
- *Alvarez v. Prospect Hosp.*, 68 NY2d 320, 324 (1986)
- *Frezzell v. City of New York*, 24 NY3d 213, 217 (2014)
- *Kabir v. County of Monroe*, 16 NY3d 217, 223-224 (2011)
- *Saarinen v. Kerr*, 84 NY2d 494, 501-503 (1994)
- *Szczerbiak v. Pilat*, 90 NY2d 553, 557 (1997)
- *Campbell v. City of Elmira*, 84 NY2d 505, 507-508, 511-513 (1994)
- *Gilson v. Metropolitan Opera*, 5 NY3d 574, 577 (2005)
- *Ortiz v. Varsity Holdings, LLC*, 18 NY3d 335, 340 (2011)
- *Vega v. Restani Constr. Corp.*, 18 NY3d 499, 505 (2012)
- *Andre v. Pomeroy*, 35 NY2d 361, 364 (1974)
- *Sillman v. Twentieth Century-Fox Film Corp.*, 3 NY2d 395, 404 (1957)
- *Granath v. Monroe County*, 237 AD3d 1595, 1595, 1598 (4th Dept 2025)