

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

People v. Dennis

2026 N.Y. Slip Op. 01876 · No. 49 KA 25-00147 · Decided March 27, 2026

SUMMARY

The New York Supreme Court, Appellate Division, Fourth Department, unanimously affirmed an order denying Brandon Dennis's CPL 440.10 motion to vacate his judgment of conviction without a hearing. The court held that although information concerning a prosecution witness's arrests and relationship with an investigating officer constituted Brady material, Dennis failed to establish materiality because other evidence independently supported the verdict.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Montour, J.P.; Smith, J.; Greenwood, J.; Nowak, J.; Hannah, J.
JURISDICTION	New York Supreme Court, Appellate Division, Fourth Department
DECIDED	March 27, 2026
DOCKET	49 KA 25-00147
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed by permission from an order of Niagara County Court denying without a hearing his CPL 440.10 motion to vacate a judgment of conviction.
STANDARD OF REVIEW	The Appellate Division reviewed whether County Court properly denied the CPL 440.10 motion without conducting a hearing and whether defendant established entitlement to relief under Brady.
PRECEDENTIAL VALUE	Published
PARTIES	Brandon Dennis v. The People of the State of New York

TOPICS

- post-conviction relief
- criminal procedure
- evidence
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether defendant was entitled to a hearing on his CPL 440.10 motion based on alleged undisclosed impeachment evidence concerning a prosecution witness.
2. Whether the alleged failure to disclose the witness's pending arrests and personal relationship with an involved officer constituted a material Brady violation warranting vacatur of the judgment.
3. Whether the alleged undisclosed information created a reasonable probability or reasonable possibility that the trial result would have changed.

HOLDINGS

1. Defendant was not entitled to a hearing because he failed to demonstrate that the nonrecord facts he sought to establish were material and would entitle him to relief.
2. Information regarding the prosecution witness's arrests and personal relationship with an involved officer constituted Brady material.
3. Defendant failed to establish a material Brady violation because there was neither a reasonable probability nor a reasonable possibility that disclosure of the information would have changed the trial result.

KEY QUOTATIONS

*“To establish a Brady violation, a defendant must show that (1) the evidence is favorable to the defendant because it is either exculpatory or impeaching in nature; (2) the evidence was suppressed by the prosecution; and (3) prejudice arose because the suppressed evidence was material” (*1)*

*“where a defendant makes a specific request for a document, the materiality element is established provided there exists a 'reasonable possibility' that it would have changed the result of the proceeding. Absent a specific request by defendant for the document, materiality can only be demonstrated by a showing that there is a 'reasonable probability' that it would have changed the outcome of the proceedings” (*1)*

FACTUAL BACKGROUND

The conviction arose from a shooting and included convictions for three counts each of second-degree murder and first-degree robbery. Defendant alleged that a prosecution witness had two pending arrests when the witness testified and had a personal relationship with an officer involved in the case. The court concluded that, even if the information was available to the prosecution and constituted Brady material, the verdict was supported by other eyewitness testimony, DNA evidence from a codefendant, and cell-phone data.

PROCEDURAL HISTORY

Defendant was convicted by a jury of, among other offenses, three counts each of second-degree murder and first-degree robbery. The Appellate Division previously modified the judgment of conviction. Defendant later moved under CPL 440.10 to vacate the judgment, alleging that the prosecution violated Brady by failing to

disclose pending arrests of a prosecution witness and the witness's personal relationship with an involved officer. Niagara County Court denied the motion without a hearing, and the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Dennis, 91 A.D.3d 1277 (4th Dep't 2012), leave to appeal denied, 19 N.Y.3d 995 (2012)
- People v. Streeter, 194 A.D.3d 1407, 1408 (4th Dep't 2021), leave to appeal denied, 37 N.Y.3d 974 (2021), reconsideration denied, 37 N.Y.3d 1029 (2021)
- People v. Kellum, 233 A.D.3d 1374, 1379 (3d Dep't 2024), leave to appeal denied, 44 N.Y.3d 983 (2025)
- People v. Fuentes, 12 N.Y.3d 259, 263 (2009), reargument denied, 13 N.Y.3d 766 (2009)
- People v. Garrett, 23 N.Y.3d 878, 885 (2014), reargument denied, 25 N.Y.3d 1215 (2015)
- People v. Lorenzo, 230 A.D.3d 1564, 1566 (4th Dep't 2024), leave to appeal denied, 42 N.Y.3d 1053 (2024)
- People v. Hanes, 218 A.D.3d 1175, 1177 (4th Dep't 2023), leave to appeal denied, 40 N.Y.3d 1092 (2024)
- People v. Valentin, 1 A.D.3d 982, 982-983 (4th Dep't 2003), leave to appeal denied, 1 N.Y.3d 602 (2004)
- People v. Reed, 115 A.D.3d 1334, 1335 (4th Dep't 2014), leave to appeal denied, 23 N.Y.3d 1024 (2014)
- People v. Smith, 138 A.D.3d 1418, 1420 (4th Dep't 2016), leave to appeal denied, 28 N.Y.3d 937 (2016)
- People v. Boykins, 160 A.D.3d 1348, 1350 (4th Dep't 2018), leave to appeal denied, 31 N.Y.3d 1145 (2018)

OPINION

PER CURIAM.

People v Dennis (2026 NY Slip Op 01876) People v Dennis 2026 NY Slip Op 01876 Decided on March 27, 2026 Appellate Division, Fourth 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 March 27, 2026 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Fourth Judicial Department PRESENT: MONTOUR, J.P., SMITH, GREENWOOD, NOWAK, AND HANNAH, JJ. 49 KA 25-00147 [*1]THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, v BRANDON DENNIS, DEFENDANT-APPELLANT.

EASTON THOMPSON KASPEREK SHIFFRIN LLP, ROCHESTER (BRIAN SHIFFRIN OF COUNSEL), FOR DEFENDANT-APPELLANT. BRIAN D. SEAMAN, DISTRICT ATTORNEY, LOCKPORT (LAURA T. JORDAN OF COUNSEL), FOR RESPONDENT. Appeal, by permission of a Justice of the Appellate Division of the Supreme Court in the Fourth Judicial Department, from an order of the Niagara County Court (John James Ottaviano, J.), entered January 3, 2025.

The order denied the motion of defendant to vacate a judgment of conviction pursuant to CPL 440.10. It is hereby ORDERED that the order so appealed from is unanimously affirmed. Memorandum: Defendant appeals, by permission of this Court, from an order that denied without a hearing his motion pursuant to CPL 440.10 to vacate the judgment convicting him upon a jury verdict of, inter alia, three counts each of murder in the second degree (Penal Law § 125.25 [1], [3]) and robbery in the first degree (§ 160.15 [2] - [4]).

We previously modified the judgment of conviction (*People v Dennis*, 91 AD3d 1277 [4th Dept 2012], lv denied 19 NY3d 995 [2012]), and we now conclude that County Court did not err in denying defendant's motion without conducting a hearing. Defendant failed to establish entitlement to a hearing on his CPL 440.10 motion inasmuch as he failed to demonstrate that "the nonrecord facts sought to be established are material and would entitle him... to relief" (*People v Streeter*, 194 AD3d 1407, 1408 [4th Dept 2021], lv denied 37 NY3d 974 [2021], reconsideration denied 37 NY3d 1029 [2021] [internal quotation marks omitted]; see *People v Kellum*, 233 AD3d 1374, 1379 [3d Dept 2024], lv denied 44 NY3d 983 [2025]).

Defendant moved to vacate the judgment on the ground that the People violated their Brady obligation by failing to disclose that a prosecution witness had two arrests pending at the time of his trial testimony and that the witness had a personal relationship with an officer involved in the case. "To establish a Brady violation, a defendant must show that (1) the evidence is favorable to the defendant because it is either exculpatory or impeaching in nature; (2) the evidence was suppressed by the prosecution; and (3) prejudice arose because the suppressed evidence was material" (*People v Fuentes*, 12 NY3d 259, 263 [2009], rearg denied 13 NY3d 766 [2009]; see *People v Garrett*, 23 NY3d 878, 885 [2014], rearg denied 25 NY3d 1215 [2015]). "[W]here a defendant makes a specific request for a document, the materiality element is established provided there exists a 'reasonable possibility' that it would have changed the result of the proceeding.

Absent a specific request by defendant for the document, materiality can only be demonstrated by a showing that there is a 'reasonable probability' that it would have changed the outcome of the proceedings" (*Fuentes*, 12 NY3d at 263; see *People v Lorenzo*, 230 AD3d 1564, 1566 [4th Dept 2024], lv denied 42 NY3d 1053 [2024]; *People v Hanes*, 218 AD3d 1175, 1177 [4th Dept 2023], lv denied 40 NY3d 1092 [2024]).

We agree with defendant that the information regarding the witness's arrests and his relationship with the officer constituted Brady material (see *People v Valentin*, 1 AD3d 982, 982-983 [4th Dept 2003], lv denied 1 NY3d 602 [2004]).

However, even assuming, arguendo, that [*2]the information was available to the People (see id. at 983), we conclude, under the circumstances of this case, that defendant failed to establish materiality under Brady inasmuch as there is neither a reasonable probability nor a reasonable possibility that, had the information been disclosed to the defense, it would have changed the

result of the trial (see Hanes, 218 AD3d at 1177; People v Reed, 115 AD3d 1334, 1335 [4th Dept 2014], lv denied 23 NY3d 1024 [2014]).

Here, the verdict did not turn solely on the witness's testimony. Other evidence, including other eyewitness testimony, DNA evidence from the codefendant, and cell phone data, "established defendant's responsibility for the shooting" (People v Smith, 138 AD3d 1418, 1420 [4th Dept 2016], lv denied 28 NY3d 937 [2016]; see People v Boykins, 160 AD3d 1348, 1350 [4th Dept 2018], lv denied 31 NY3d 1145 [2018]).

Entered: March 27, 2026 Ann Dillon Flynn Clerk of the Court