



BenchNOTES Newsletter

December 2021

OATH NEWS

Court order requires increase in DOC case filings: On November 19, Judge Laura Taylor Swain issued an [order](#) in the Nunez v. City of New York litigation in the U.S. District Court for the Southern District of New York, requiring the NYC Department of Correction to file an increased volume of disciplinary matters alleging excessive use of force.

[Read more about OATH News](#)

COVID-19 Update

Pursuant to an order of the Chief Administrative Law Judge, hearings, trials, and other OATH operations are being conducted by telephone, videoconferencing, online, or mail, and in-person appearances are also available. For more information, visit OATH's website at www.nyc.gov/oath.

[Read more about COVID-19 update](#)

Trials Division

Personnel

Correction officer used excessive force, termination recommended.

ALJ Noel R. Garcia recommended termination of employment for a Department of Correction officer who punched an inmate four or five times while the inmate was in leg restraints, had one arm cuffed to the wall, and was being held by two other officers.

[**Dep't of Correction v. Woodburn & Familiare**](#), OATH Index No. 266/21 & 543/21 (Oct. 18, 2021).

[**Read more about Dep't of Correction v. Woodburn & Familiare**](#)

Procedure

Open-ended adjournment request denied.

ALJ Ingrid M. Addison denied a correction officer's request to adjourn and invalidate a disciplinary proceeding which had previously been adjourned on multiple occasions and at which respondent failed to appear.

[**Dep't of Correction v. Ramos**](#), OATH Index No. 1283/21, mem. dec. (Oct. 6, 2021).

[**Read more about Dep't of Correction v. Ramos**](#)

Appeals Division decisions (appeals from the Hearings Division)

Bus idling near school charge dismissed.

The Appeals Division reversed a hearing officer's decision and dismissed a charge of idling a bus engine longer than one minute while adjacent to a school.

[DEP v. Reliant Transportation Inc](#), Appeal No. 2100804 (October 21, 2021)

[Read more about DEP v. Reliant Transportation Inc](#)

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