

Proskauer Files Amicus Brief in the New York Court of Appeals Raising Critical Juvenile Justice Issues

Proskauer For Good on November 6, 2025

On October 3, 2025, a Proskauer team filed an [amicus brief](#) on behalf of 26 juvenile justice advocacy organizations in support of Errick Guerrero's appeal to the New York Court of Appeals of the lower courts' decision to prevent removal of his criminal case to family court. According to amici, the case threatens to undermine recent juvenile justice reform, thereby putting the communities they serve at risk.

The New York State Legislature passed "Raise the Age" legislation in 2017 with the express purpose of ensuring that juveniles are treated differently than adults in the New York criminal legal system. Raise the Age does so by applying a presumption of removal from adult criminal court to family court for nearly all juvenile cases. To deny removal, Raise the Age requires either a serious felony – cases involving allegations of significant physical injury, a sexual offense, or display of a deadly weapon – or a demonstration of "extraordinary circumstances."

The amicus brief advanced four main arguments. First, the brief argued that Raise the Age's legislative intent was to embrace empirical data on adolescent brain development and reject past punitive legislation. The brief cited legislative history and scientific research showing an overwhelming scientific consensus that adolescents lack the same emotional self-regulation and future-oriented decision-making ability as adults. By allowing youthful offenders to receive services provided in family court, Raise the Age offers them a better opportunity to turn their lives around by avoiding the consequences of a criminal record.

Second, the brief argued that the fundamental goal of Raise the Age was to apply a strict definition of "extraordinary circumstances" that did not include serious but unextraordinary offenses like robbery, which was at issue in this case. The brief contended that the circumstances of Mr. Guerrero's case were not "extraordinary" and did not meet the threshold of "unusual and heinous facts."

Third, the brief argued that courts are required to make an individualized inquiry into a young person's needs and the extent to which those needs have been addressed in order to deny removal to family court based on extraordinary circumstances. In Mr. Guerrero's case, the trial court relied on the determination that Mr. Guerrero had "been engaged in services for over a period of five years" in preventing removal to family court, and the Appellate Division affirmed. The brief argued that the determination here lacked a sufficient inquiry into Mr. Guerrero's amenability to services, which must be grounded in the principles of adolescent development that drove Raise the Age.

Finally, the brief cautioned that adopting a broad definition of "extraordinary circumstances" would negatively impact public safety and widen racial disparities. Analysis of New York City crime data shows that youth under 18 are responsible for less violence in New York since the enactment of Raise the Age. The Law was designed, in part, to address the disproportionate treatment of young people of color in the criminal legal system. The brief argued that upholding decisions like those in Mr. Guerrero's case would undermine the important goals and fundamental purpose of Raise the Age.

Briefing by the parties in *The People of the State of New York v. Errick Guerrero*, APL 2025-00069 was completed on September 3, 2025, and all amicus briefing was filed by October 3, 2025. Oral argument is scheduled for January 7, 2026.

The Proskauer team includes Pro Bono Partner William Silverman, Pro Bono Counsel Michelle Moriarty, associates Erin Savoie and Michael Beckwith, paralegal Joan Hoffman, and project assistant Emma Lotts.

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