

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

People v. Howard

2026 NY Slip Op 03526 · No. 200 KA 24-01289 · Decided June 5, 2026

SUMMARY

The New York Appellate Division, Fourth Department unanimously affirmed a judgment convicting Mounir L. Howard of attempted assault in the first degree, assault in the second degree, and two counts of criminal possession of a weapon in the second degree. The court held that Howard withdrew or abandoned his request to proceed pro se and rejected his claim that the sentence was unduly harsh or severe.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Lindley, J.P.; Bannister, J.; Greenwood, J.; Nowak, J.; Hannah, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
DECIDED	June 5, 2026
DOCKET	200 KA 24-01289
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of Oneida County Court entered after a jury convicted him of attempted assault in the first degree, assault in the second degree, and two counts of criminal possession of a weapon in the second degree.
STANDARD OF REVIEW	The court applied the New York standard governing a defendant's request to proceed pro se, requiring an unequivocal and timely request, a knowing and intelligent waiver of the right to counsel, and no conduct preventing the fair and orderly exposition of the issues. It reviewed the contention that the sentence was unduly harsh or severe under the applicable appellate sentencing standard.
PRECEDENTIAL VALUE	Published intermediate appellate opinion
PARTIES	Mounir L. Howard v. The People of the State of New York

TOPICS

right to counsel criminal procedure appellate procedure sentencing

PRACTICE AREAS

criminal law criminal procedure appellate litigation

QUESTIONS PRESENTED

1. Whether County Court denied defendant the right to represent himself by appointing counsel after defendant initially indicated that he wanted to proceed pro se.
2. Whether defendant's sentence was unduly harsh or severe.

HOLDINGS

1. County Court did not deny defendant the right to self-representation because defendant withdrew or abandoned his initial request to proceed pro se before counsel was assigned.
2. The sentence was not unduly harsh or severe.

KEY QUOTATIONS

*"A defendant in a criminal case may proceed pro se if "(1) the request is unequivocal and timely asserted, (2) there has been a knowing and intelligent waiver of the right to counsel, and (3) the defendant has not engaged in conduct which would prevent the fair and orderly exposition of the issues"" ([*1])*

FACTUAL BACKGROUND

Defense counsel moved to withdraw one month before trial, and both defendant and counsel agreed that their relationship had completely broken down. Defendant initially responded affirmatively when the court raised the possibility that he wanted to represent himself, but he then indicated that he had no legal training, ended the conversation, and agreed to seek new counsel. After two weeks of court appearances, defendant accepted representation by attorneys from the public defender's office, made no objection, and never again raised self-representation.

PROCEDURAL HISTORY

Oneida County Court granted defense counsel's motion to withdraw approximately one month before trial. Defendant initially indicated that he wanted to represent himself, but after the court questioned him, advised against self-representation, and arranged for him to seek new counsel, defendant accepted representation by attorneys from the public defender's office and did not renew his request to proceed pro se. Following the jury verdict and judgment of conviction, defendant appealed. The Appellate Division unanimously affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. McIntyre, 36 NY2d 10, 17 [1974]
- People v. Lewis, 44 NY3d 350, 358 [2025]
- People v. Williams, 203 AD3d 1571, 1571-1572 [4th Dept 2022], lv denied 38 NY3d 1075 [2022]
- People v. Battle, 200 AD3d 1712, 1715 [4th Dept 2021], lv denied 38 NY3d 1132 [2022]
- People v. Jordan, 157 AD3d 413, 414 [1st Dept 2018], lv denied 31 NY3d 984 [2018]
- People v. Gillian, 8 NY3d 85, 88 [2006]

OPINION

PER CURIAM.

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This decision is uncorrected and subject to revision before publication in the Official Reports. THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, v MOUNIR L. HOWARD, DEFENDANT-APPELLANT. Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department Decided on June 5, 2026 200 KA 24-01289 Present: Lindley, J.P., Bannister, Greenwood, Nowak, And Hannah, JJ. JOHN ROWLEY, SPENCER, FOR DEFENDANT-APPELLANT.

TODD C. CARVILLE, DISTRICT ATTORNEY, UTICA (MICHAEL A. LABELLA OF COUNSEL), FOR RESPONDENT. Appeal from a judgment of the Oneida County Court (Michael L. Dwyer, J.), rendered April 25, 2024. The judgment convicted defendant upon a jury verdict of attempted assault in the first degree, assault in the second degree and criminal possession of a weapon in the second degree (two counts). [*1] It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him upon a jury verdict of, inter alia, attempted assault in the first degree (Penal Law §§ 110.00, 120.10 [1]). We affirm. We reject defendant's contention that County Court denied him the right to represent himself. A defendant in a criminal case may proceed pro se if "(1) the request is unequivocal and timely asserted, (2) there has been a knowing and intelligent waiver of the right to counsel, and (3) the defendant has not engaged in conduct which would prevent the fair and orderly exposition of the issues" (People v McIntyre, 36 NY2d 10, 17 [1974]; see People v Lewis, 44 NY3d 350, 358 [2025]; People v Williams, 203 AD3d 1571, 1571-1572 [4th Dept 2022], lv denied 38 NY3d 1075 [2022]).

Here, defendant retained counsel to represent him, but defense counsel moved for leave to withdraw from representing defendant a month prior to trial. After both defendant and defense counsel agreed in court that the relationship between them was "totally broken down," the court granted the motion.

The court then addressed with defendant proceeding forward and noted that there was an allegation from the public defender's office that defendant wanted to represent himself. Defendant responded "Absolutely." In response to questioning from the court, defendant indicated that he had no legal training and then abruptly stated "[c]onversation is done." Nevertheless, the court continued speaking with defendant and advised him that it did not believe that he was capable of representing himself and that it would be a "foolish decision" to do so.

Defendant responded "Okay, that's fine" and "All right" and indicated that he would look for new counsel, but did not want anyone from the public defender's office. Defendant agreed with the court's proposal to have him return to court every week to report on any progress made and to assign him an attorney if defendant did not retain counsel in one month.

After one week, defendant indicated that he was reviewing a list and was getting close to a decision. After another week, defendant returned to court and, following a discussion at the bench, the court placed on the record that defendant would be represented by attorneys from the public defender's office. Defendant made no objection and never again raised the issue of proceeding pro se.

Under these circumstances, we conclude that defendant withdrew or abandoned his request to proceed pro se (see *People v Battle*, 200 AD3d 1712, 1715 [4th Dept 2021], lv denied 38 NY3d 1132 [2022]; *People v Jordan*, 157 AD3d 413, 414 [1st Dept 2018], lv denied 31 NY3d 984 [2018]). Counsel was assigned to him just two weeks after he initially remarked that he wanted to proceed pro se, and defendant was "seemingly satisfied" with that appointment [*2] (*People v Gillian*, 8 NY3d 85, 88 [2006]).

Contrary to defendant's further contention, the sentence is not unduly harsh or severe. Entered: June 5, 2026 Ann Dillon Flynn Clerk of the Court Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.