

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT

People v. Rivera

2026 NY Slip Op 04043 · No. Appeal No. 6956; Ind. No. 71027/24; Case No. 2024-07406 · Decided June 25,
2026

SUMMARY

The Appellate Division, First Department unanimously affirmed Martin Rivera's judgment of conviction for attempted criminal possession of a weapon in the second degree. The court held that Rivera validly waived his right to appeal, foreclosing review of his suppression claim, and alternatively concluded that police had probable cause to arrest him for criminal trespass. The firearm recovered during the ensuing search incident to arrest was therefore lawfully obtained.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Per curiam; Webber, J.P.; Kapnick, J.; Gesmer, J.; Pitt-Burke, J.; Chan, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, First Department
DECIDED	June 25, 2026
DOCKET	Appeal No. 6956; Ind. No. 71027/24; Case No. 2024-07406
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of Supreme Court, New York County, entered after a suppression ruling, guilty plea, and sentencing, convicting him of attempted criminal possession of a weapon in the second degree.
PRECEDENTIAL VALUE	Published opinion; precedential value under New York law.
PARTIES	Martin Rivera v. The People of the State of New York

TOPICS

suppression of evidence probable cause search and seizure criminal procedure appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Rivera's valid waiver of the right to appeal foreclosed appellate review of his suppression claim.
2. Alternatively, whether the circumstances surrounding Rivera's presence in the maintenance shed supplied probable cause to arrest him for criminal trespass and rendered the ensuing search incident to arrest lawful.

HOLDINGS

1. Rivera validly waived his right to appeal, and the waiver foreclosed appellate review of his suppression claim.
2. The circumstances supplied police with probable cause to arrest Rivera for criminal trespass, and the search incident to that arrest, which recovered a loaded firearm, was lawful.

KEY QUOTATIONS

“Defendant validly waived his right to appeal, which forecloses review of his suppression claim” ([*1])

“the search incident to arrest, during which the police recovered a loaded firearm from defendant's waistband, was lawful” ([*1])

FACTUAL BACKGROUND

Police discovered Rivera inside a maintenance shed in a New York City public park behind a waist-high gate. The shed's lock had been broken off, and its door was held closed from the inside by a bungee cord. Police arrested Rivera for criminal trespass and, in a search incident to that arrest, recovered a loaded firearm from his waistband.

PROCEDURAL HISTORY

Supreme Court, New York County, denied defendant's suppression motion, accepted his plea, and sentenced him as a second felony offender to three years' imprisonment. The Appellate Division unanimously affirmed the judgment.

DISPOSITION

affirmed

CASES CITED

- People v. Thomas, 34 NY3d 545, 559 [2019], cert denied 589 US 1302 [2020]
- People v. Yizar, 240 AD3d 416, 416-417 [1st Dept 2025], lv denied 44 NY3d 985 [2025]
- People v. Barnes, 26 NY3d 986, 989 [2015]

- People v. Cohen, 204 AD2d 159, 160 [1st Dept 1994], lv denied 83 NY2d 966 [1994]
- People v. Ramirez, 177 AD3d 460, 461 [1st Dept 2019], lv denied 37 NY3d 1098 [2021]

OPINION

People v. Rivera 2026 NY Slip Op 04043

PER CURIAM.

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(see *People v Ramirez* , 177 AD3d 460, 461 [1st Dept 2019], lv denied 37 NY3d 1098 [2021]). THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: June 25, 2026 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. PER CURIAM.

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waistband, was lawful (see *People v Ramirez* , 177 AD3d 460 , 461 [1st Dept 2019], lv denied 37 NY3d 1098 [2021]). THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: June 25, 2026 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.

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