

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

People v. Garcia

Garcia, 2026 NY Slip Op 00386 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2026) · No. 2018-15102 · Decided January 28, 2026

SUMMARY

The Appellate Division, Second Department affirmed Luis Garcia's judgment of conviction for burglary in the first degree and robbery in the first degree. The court held that challenges to the grand jury proceeding and accomplice-as-a-matter-of-law jury instruction were unpreserved, and alternatively found no reversible error. It also upheld the denial of suppression motions, concluding that the vehicle stop and subsequent arrest were supported by reasonable suspicion and probable cause.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Francesca E. Connolly, J.P.; William G. Ford, J.; Helen Voutsinas, J.; Laurence L. Love, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	January 28, 2026
DOCKET	2018-15102
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Suffolk County Court convicting him, after a jury trial, of burglary in the first degree and robbery in the first degree and imposing sentence. The appeal also brought up for review the denial, after a hearing, of defendant's omnibus-motion requests to suppress physical evidence and statements.
STANDARD OF REVIEW	The court reviewed preservation issues for whether the claims were properly raised below; reviewed the suppression ruling under the applicable reasonable-suspicion and probable-cause standards; reviewed the jury-instruction error for harmlessness; and reviewed the sentence for excessiveness.

PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Luis Garcia v. The People of the State of New York

TOPICS

criminal procedure search and seizure probable cause suppression of evidence jury instructions

PRACTICE AREAS

criminal law criminal procedure appellate procedure evidence

QUESTIONS PRESENTED

1. Whether alleged improper grand-jury testimony impaired the integrity of the grand-jury proceeding so that the indictment should be dismissed.
2. Whether police had reasonable suspicion to stop the red Ford Focus based on the recent burglary and real-time GPS location of a stolen phone, and whether the ensuing arrest was supported by probable cause.
3. Whether the defendant preserved his claim that the court should have charged a witness as an accomplice as a matter of law under CPL 60.22, and, if so, whether the omission required reversal.
4. Whether the sentence imposed was excessive.

HOLDINGS

1. The claim that a detective's grand-jury testimony impaired the integrity of the grand-jury proceeding was unpreserved because defendant did not move to dismiss the indictment on that specific ground; his motion to reinspect the grand-jury minutes was insufficient to preserve the claim. In any event, the testimony did not warrant dismissal because independent admissible proof supported the indictment and the alleged error did not impair the proceeding to the required degree.
2. The police had reasonable suspicion to stop the red Ford Focus because a recently stolen cell phone was being tracked in close to real time, the vehicle was the only moving nonpolice vehicle at the relevant location, and the circumstances reasonably suggested that the phone and persons involved in the burglary were inside the vehicle.
3. The lawful stop, together with the ringtone heard from the passenger side after police sent an alert to the tracked phone, ripened into probable cause to arrest defendant. Because the stop and arrest were lawful, suppression of the physical evidence and custodial statements as fruits of the poisonous tree was properly denied.
4. Defendant's claim that the County Court should have charged a witness as an accomplice as a matter of law was unpreserved. Although the court should have given the instruction, the error was harmless because the evidence of guilt was overwhelming and there was no significant probability that the error affected the verdict.
5. The sentence imposed was not excessive.

KEY QUOTATIONS

“In any event, the “exceptional” remedy of dismissal of an indictment is warranted only where prosecutorial misconduct, fraudulent conduct, or errors created a possibility of prejudice” ([*1])

“Reasonable suspicion is the quantum of knowledge sufficient to induce an ordinarily prudent and cautious person under the circumstances to believe criminal activity is at hand” ([*2])

“Accordingly, the record supports the County Court’s determination that the People established that the officers had reasonable suspicion to stop the vehicle” ([*2])

FACTUAL BACKGROUND

Police received radio transmissions concerning a burglary and GPS information locating a stolen cell phone. The GPS location was updating close to real time, and at approximately 3:53 a.m. officers observed a red Ford Focus as the only moving nonpolice vehicle at that location, leading them to stop it. After officers sent an alert to the phone, they heard a ringtone from the passenger side; the defendant was driving the vehicle, and the ensuing arrest produced physical evidence and custodial statements that defendant sought to suppress.

PROCEDURAL HISTORY

The Suffolk County Court denied defendant’s suppression requests, and a jury convicted him of burglary in the first degree and robbery in the first degree. The County Court rendered judgment and imposed sentence on November 19, 2018. The Appellate Division affirmed, holding that several claims were unpreserved and rejecting the preserved suppression, grand-jury, accomplice-instruction, and excessive-sentence claims.

DISPOSITION

affirmed

CASES CITED

- People v. Edwards, 230 AD3d 1250, 1253
- People v. Sicilianonunez, 172 AD3d 912, 913
- People v. Forde, 140 AD3d 1085, 1087
- People v. Brown, 81 NY2d 798, 799
- People v. Agee, 57 AD3d 1486, 1486-1487
- People v. Huston, 88 NY2d 400, 409
- People v. Addimando, 197 AD3d 106, 121
- People v. Carncross, 59 AD3d 1112, affd 14 NY3d 319
- People v. Smith, 289 AD2d 597
- People v. Kappen, 142 AD3d 1106
- People v. Aguilera, 158 AD3d 638, 638
- People v. Mortel, 197 AD3d 196, 206, 208

- People v. Watkins, 221 AD3d 620, 621
- People v. Bowers, 148 AD3d 1042
- People v. Bianchi, 208 AD2d 551, 551-552, affd 85 NY2d 1022
- People v. Mena, 172 AD3d 1235, 1236
- People v. Alvarez, 100 NY2d 549, 550
- People v. Mais, 71 AD3d 1163, 1165
- People v. Crimmins, 38 NY2d 407
- People v. Chestnut, 24 AD3d 463, 464
- People v. Suitte, 90 AD2d 80

OPINION

PER CURIAM.

People v Garcia (2026 NY Slip Op 00386) People v Garcia 2026 NY Slip Op 00386 Decided on January 28, 2026 Appellate Division, Second 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 January 28, 2026 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department FRANCESCA E. CONNOLLY, J.P.

WILLIAM G. FORD HELEN VOUTSINAS LAURENCE L. LOVE, JJ. 2018-15102 (Ind. No. 2441/16) [*1]The People of the State of New York, respondent, v Luis Garcia, appellant. Sabato Caponi, Bohemia, NY, for appellant. Raymond A. Tierney, District Attorney, Riverhead, NY (Lauren Tan of counsel), for respondent. DECISION & ORDER Appeal by the defendant from a judgment of the County Court, Suffolk County (Timothy P. Mazzei, J.), rendered November 19, 2018, convicting him of burglary in the first degree and robbery in the first degree, upon a jury verdict, and imposing sentence.

The appeal brings up for review the denial, after a hearing, of those branches of the defendant's omnibus motion which were to suppress physical evidence and his statements to law enforcement officials. ORDERED that the judgment is affirmed.

The defendant's contention that a detective's grand jury testimony impaired the integrity of the grand jury proceeding to such a degree that the indictment should have been dismissed is unpreserved for appellate review.

The defendant failed to move to dismiss the indictment on that specific ground (see People v Edwards, 230 AD3d 1250, 1253; People v Sicilianonunez, 172 AD3d 912, 913; People v Forde, 140 AD3d 1085, 1087), and his motion to re-inspect the grand jury minutes was insufficient to preserve his contention for appellate review (see People v Brown, 81 NY2d 798, 799; People v Edwards, 230 AD3d at 1253; People v Agee, 57 AD3d 1486, 1486-1487).

In any event, the "exceptional" remedy of dismissal of an indictment is warranted only where prosecutorial misconduct, fraudulent conduct, or errors created a possibility of prejudice (*People v Huston*, 88 NY2d 400, 409; see *People v Addimando*, 197 AD3d 106, 121).

Here, the admission of the subject testimony did not impair the integrity of the grand jury proceeding to the extent that dismissal of the indictment was required (see *People v Edwards*, 230 AD3d at 1253; *People v Carncross*, 59 AD3d 1112, affd 14 NY3d 319; *People v Smith*, 289 AD2d 597) in view of the sufficiency of the independent, admissible proof that supported the indictment (see *People v Addimando*, 197 AD3d at 121; *People v Kappen*, 142 AD3d 1106).

Contrary to the defendant's contention, the County Court properly denied those branches of his omnibus motion which were to suppress physical evidence and his statements to law enforcement officials. "Where a defendant moves to suppress evidence, the People bear the burden of going forward to establish the legality of police conduct in the first instance" (*People v Aguilera*, 158 AD3d 638, 638 [internal quotation marks omitted]).

Automobile stops are lawful when, among [*2]other things, they are "based on a reasonable suspicion that the driver or occupants of the vehicle have committed, are committing, or are about to commit a crime" (*People v Mortel*, 197 AD3d 196, 206 [internal quotation marks omitted]). "Reasonable suspicion is the quantum of knowledge sufficient to induce an ordinarily prudent and cautious person under the circumstances to believe criminal activity is at hand" (*People v Watkins*, 221 AD3d 620, 621 [alteration and internal quotation marks omitted]).

Here, the evidence adduced at the suppression hearing established that police officers received radio transmissions about a burglary and GPS location information for a stolen cell phone. The GPS location was updating in "close to real time," leading the officers to believe that the tracked phone was inside a red Ford Focus, as, at approximately 3:53 a.m., it was the only moving nonpolice vehicle at that GPS location, and the officers stopped the red Ford Focus.

Under the circumstances, the officers reasonably suspected that the tracked phone was inside the red Ford Focus and that the defendant, who was driving the vehicle, or the occupants were involved in the burglary, which was reported to have occurred less than 10 minutes prior to the stop (see *People v Bowers*, 148 AD3d 1042). Thereafter, the officers requested that an alert be sent to the phone, and a ringtone was heard from the passenger side of the red Ford Focus.

Accordingly, the record supports the County Court's determination that the People established that the officers had reasonable suspicion to stop the vehicle (see *People v Mortel*, 197 AD3d at 208; *People v Bianchi*, 208 AD2d 551, 551-552, affd 85 NY2d 1022), which later ripened into probable cause to place the defendant under arrest (see *People v Mena*, 172 AD3d 1235, 1236).

Since the initial stop and subsequent arrest of the defendant were lawful, the court correctly denied those branches of the defendant's omnibus motion which were to suppress physical evidence as

well as custodial statements made by him as the fruits of the poisonous tree (see *People v Alvarez*, 100 NY2d 549, 550; *People v Mais*, 71 AD3d 1163, 1165).

The defendant failed to preserve for appellate review his contention that the County Court erred in failing to charge the jury that a witness was an accomplice as a matter of law pursuant to CPL 60.22 (see id. § 470.05[2]).

In any event, while the court should have charged the jury that the witness was an accomplice as a matter of law, the error was harmless because the evidence of the defendant's guilt was overwhelming, and there was no significant probability that the error affected the verdict (see *People v Crimmins*, 38 NY2d 407; *People v Chestnut*, 24 AD3d 463, 464).

The sentence imposed was not excessive (see *People v Suitte*, 90 AD2d 80). CONNOLLY, J.P., FORD, VOUTSINAS and LOVE, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court