

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

People v. Mable

2026 NY Slip Op 02470 · No. Ind No. 2085/19; Appeal No. 6438; Case No. 2020-01055 · Decided April 23, 2026

SUMMARY

The Appellate Division, First Department, unanimously affirmed Michael Mable's judgment of conviction for criminal possession of a weapon in the third degree following his guilty plea. The court held that his challenge to the voluntariness of the plea was unpreserved, declined to review it in the interest of justice, and alternatively found no basis in the record to doubt the plea's voluntariness.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of New York, Appellate Division, First Department                                                                                                                                                                   |
| WRITING FOR THE COURT | Scarpulla, J.P.; Friedman, J.; Gesmer, J.; Shulman, J.; Chan, J.                                                                                                                                                                               |
| JURISDICTION          | New York Supreme Court, Appellate Division, First Department                                                                                                                                                                                   |
| DECIDED               | April 23, 2026                                                                                                                                                                                                                                 |
| DOCKET                | Ind No. 2085/19; Appeal No. 6438; Case No. 2020-01055                                                                                                                                                                                          |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                       |
| PROCEDURAL POSTURE    | Defendant appealed from a judgment convicting him, upon his guilty plea, of criminal possession of a weapon in the third degree and sentencing him as a second felony offender to 2½ to 5 years' imprisonment.                                 |
| STANDARD OF REVIEW    | A challenge to the voluntariness of a guilty plea ordinarily must be preserved by an appropriate post-plea motion. The court may review an unpreserved claim in the interest of justice, including under the narrow People v. Lopez exception. |
| PRECEDENTIAL VALUE    | Published                                                                                                                                                                                                                                      |
| PARTIES               | Michael Mable v. The People of the State of New York                                                                                                                                                                                           |

TOPICS

- plea bargaining
- preservation of error
- criminal procedure
- appellate procedure

## PRACTICE AREAS

criminal procedure

appellate practice

## QUESTIONS PRESENTED

1. Whether defendant's challenge to the voluntariness of his guilty plea was preserved for appellate review.
2. Whether the narrow exception to the preservation rule for plea-colloquy statements casting significant doubt on guilt or voluntariness applied.
3. Whether statements in a presentence report could trigger the *People v. Lopez* exception.
4. Whether the record otherwise cast doubt on the voluntariness of defendant's guilty plea.

## HOLDINGS

1. Defendant's challenge to the voluntariness of his guilty plea was unpreserved, and the court declined to review it in the interest of justice.
2. The narrow *Lopez* exception did not apply because defendant said nothing during the plea colloquy that raised the possibility of a defense or otherwise cast significant doubt on his guilt or the voluntariness of the plea.
3. Statements made in a presentence report do not trigger the narrow *People v. Lopez* exception to the preservation rule.
4. Alternatively, nothing in the record cast doubt on the voluntariness of defendant's guilty plea.

## KEY QUOTATIONS

*"The narrow exception to the preservation rule for "where the defendant's recitation of the facts underlying the crime pleaded to clearly casts significant doubt upon the defendant's guilt or otherwise calls into question the voluntariness of the plea"" (\*1)*

## FACTUAL BACKGROUND

Defendant pleaded guilty to criminal possession of a weapon in the third degree. He was sentenced as a second felony offender to 2½ to 5 years in prison. During the plea colloquy, he did not make statements raising a possible defense or otherwise casting doubt on his guilt or the voluntariness of his plea, although he later asserted that statements in a presentence interview raised a temporary lawful possession defense.

## PROCEDURAL HISTORY

The Supreme Court, Bronx County, entered judgment on December 3, 2019, after defendant pleaded guilty and was sentenced. On appeal, defendant challenged the voluntariness of his plea, relying in part on statements made during a presentence interview. The Appellate Division held that the challenge was unpreserved, declined interest-of-justice review, alternatively found no record basis to doubt the plea's voluntariness, and unanimously affirmed.

## DISPOSITION

affirmed

## CASES CITED

- People v. Lopez, 71 NY2d 662, 666 [1988]
- People v. Rios, — NY3d —, 2026 NY Slip Op 00963, \*3 [2026]
- People v. Grant, 203 AD3d 477, 477-478 [1st Dept 2022], lv denied 38 NY3d 1033 [2022]
- People v. Rojas, 159 AD3d 468, 468 [1st Dept 2018], lv denied 31 NY3d 1086 [2018]

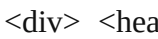
## OPINION

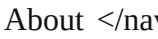
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PER CURIAM.

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2026 NY Slip Op 02470  
April 23, 2026  
Appellate Division, First Department  
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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.  
Michael Mable, Defendant-Appellant.

Decided and Entered: April 23, 2026  
Ind No. 2085/19|Appeal No. 6438|Case No. 2020-01055|  
Before: Scarpulla, J.P., Friedman, Gesmer, Shulman, Chan, JJ.  
Twyla Carter, The Legal Aid Society, New York (Megan Taeschler of counsel), for appellant.  
Darcel D. Clark, District Attorney, Bronx (Mary McGarvey-DePuy of counsel), for respondent.

\*1 Judgment, Supreme Court, Bronx County (Michael J. Hartofilis, J., at plea; Bahaati E. Pitt, J., at sentencing), rendered December 3, 2019, convicting defendant, upon his plea of guilty, of criminal possession of a weapon in the third degree, and sentencing him, as a second felony offender, to a prison term of 2½ to 5 years, unanimously affirmed.  
Defendant's challenge to the voluntariness of his plea is unpreserved, and we decline to review it in the interest of justice. The narrow exception to the preservation rule for "where the defendant's recitation of the facts underlying the crime pleaded to clearly casts significant doubt upon the defendant's guilt or otherwise calls into question the voluntariness of the plea" (*People v Lopez*, 71 NY2d 662, 666 [1988]) does not apply because defendant said nothing during the plea colloquy that raised the possibility of a defense

(*see People v Rios*, — NY3d —, 2026 NY Slip Op 00963, \* 3 [2026]). Defendant contends that he made statements that raised a defense of temporary lawful possession during his presentence interview, but the *Lopez* exception does not apply to statements in presentence reports (*see* *People v Grant*, 203 AD3d 477, 477-478 [1st Dept 2022], *lv* *denied* 38 NY3d 1033 [2022]; *People v Rojas*, 159 AD3d 468, 468 [1st Dept 2018], *lv* *denied* 31 NY3d 1086 [2018]).

As an alternative holding, we find that nothing in the record casts doubt on the voluntariness of the plea.

THIS CONSTITUTES THE DECISION AND ORDER

OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: April 23, 2026

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