

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

People v. Kitchens

Kitchens, 2026 NY Slip Op 02468 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Ind. No. 4301/18; Appeal No. 5543; Case No. 2024-05793 · Decided April 23, 2026

SUMMARY

The Appellate Division, First Department unanimously affirmed Keyshawn Kitchens's convictions for first- and second-degree assault and concurrent seven-year sentences. The court declined to review several unpreserved claims, including statutory speedy-trial, legal-sufficiency, and prosecutorial-summation challenges, while alternatively rejecting those claims on the merits. The court held that the period needed to obtain DNA test results was excludable under CPL 30.30(4)(g), the evidence was legally sufficient and supported rejection of justification, and the summation did not deprive defendant of a fair trial.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Moulton, J.P.; González, J.; Mendez, J.; Rodriguez, J.; Pitt-Burke, J.
JURISDICTION	New York, Appellate Division, First Department
DECIDED	April 23, 2026
DOCKET	Ind. No. 4301/18; Appeal No. 5543; Case No. 2024-05793
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Supreme Court, New York County, convicting him after trial of assault in the first degree and assault in the second degree and sentencing him to concurrent seven-year terms.
STANDARD OF REVIEW	For legal sufficiency, the evidence was viewed in the light most favorable to the People. The court independently assessed whether the evidence established guilt beyond a reasonable doubt and whether the justification defense was properly rejected. The court also reviewed the weight of the evidence and jury credibility determinations, finding no basis to disturb them. Unpreserved claims were not reviewed absent an interest-of-justice determination.

PRECEDENTIAL VALUE	Published intermediate appellate decision; uncorrected and subject to revision before publication in the Official Reports.
PARTIES	Keyshawn Kitchens, Defendant-Appellant v. The People of the State of New York, Respondent

TOPICS

speedy trial criminal procedure preservation of error appellate procedure evidence

PRACTICE AREAS

criminal procedure appellate procedure criminal evidence

QUESTIONS PRESENTED

1. Whether defendant's statutory speedy-trial claims under CPL 30.30 were preserved and, alternatively, whether the period from March 28 to May 2, 2019, was excludable as an exceptional circumstance.
2. Whether the trial evidence was legally sufficient to support the assault convictions and rejection of defendant's justification defense.
3. Whether the verdict was against the weight of the evidence or required disturbance of the jury's credibility determinations.
4. Whether the prosecutor's allegedly improper summation remarks denied defendant a fair trial.

HOLDINGS

1. Defendant failed to preserve his statutory speedy-trial claims because he did not reply to or dispute the People's representation that they exercised due diligence in obtaining DNA testing. The challenged period was properly treated as excludable, and the Supreme Court properly denied the CPL 30.30 motion.
2. The evidence was legally sufficient to establish defendant's guilt of assault in the first degree and assault in the second degree beyond a reasonable doubt and to support rejection of his justification defense.
3. The prosecutor's summation was within the range of acceptable argument and did not unfairly prejudice defendant; the trial court's jury instructions also alleviated any alleged prejudice.

KEY QUOTATIONS

*"On a CPL 30.30 motion the defendant may satisfy their initial burden "by alleging only that the prosecution failed to declare readiness within the statutorily prescribed time period"" (at *1)*

*"The defendant preserves challenges to the People's reliance on the exclusions by identifying any legal or factual impediments to the use of those exclusions" (at *1)*

*"Viewing the evidence in the light most favorable to the People, we find that the evidence supporting defendant's convictions under Penal Law §§ 120.10(1) and 120.05(2) was legally sufficient to establish his guilt beyond a reasonable doubt and to merit rejection of his justification defense" (at *2)*

FACTUAL BACKGROUND

Defendant was convicted of stabbing the victim three times, resulting in convictions for assault in the first degree and assault in the second degree. The trial evidence included the victim's testimony, surveillance video, and testimony from other witnesses; the court found sufficient evidence that defendant was the initial aggressor and that the victim was unarmed. Before trial, the People sought an adjournment from March 28 to May 2, 2019, to obtain DNA test results from the Office of the Chief Medical Examiner and represented that they had exercised due diligence.

PROCEDURAL HISTORY

The Supreme Court denied defendant's statutory speedy-trial motion, proceeded to trial, and entered judgment on June 1, 2023. On appeal, defendant challenged the speedy-trial ruling, the legal sufficiency and weight of the trial evidence, and the prosecutor's summation. The Appellate Division held that the claims were unpreserved or declined interest-of-justice review, alternatively rejected them on the merits, and unanimously affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Winston, 177 AD3d 524, 524-525 (1st Dept 2019), lv denied, 34 NY3d 1164 (2020)
- People v. Luperon, 85 NY2d 71, 77-78 (1995)
- People v. Beasley, 16 NY3d 289, 292 (2011)
- People v. Hatcher, 228 AD3d 565 (2024), lv denied, 43 NY3d 1046 (2025)
- People v. Allard, 28 NY3d 41, 46 (2016)
- People v. Danielson, 9 NY3d 342, 349-350 (2007)
- People v. Rowe, 192 AD2d 468, 469 (1st Dept 1993), lv denied, 82 NY2d 759 (1993)
- People v. D'Allessandro, 184 AD2d 114, 119 (1st Dept 1992), lv denied, 81 NY2d 884 (1993)