

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

People v. Almonte

Almonte, 2026 NY Slip Op 00433 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. 2023-04594 · Decided January 29, 2026

SUMMARY

The Appellate Division, First Department unanimously affirmed Lucas Almonte's convictions for assault in the second degree and criminal possession of a weapon in the fourth degree, with an aggregate sentence of five years of probation. The court held that the evidence was legally sufficient, rejected or declined to review claims concerning justification, the admission and translation of video audio, and the court's response to a jury note.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Scarpulla, J.P.; Kapnick, J.; González, J.; Shulman, J.; O'Neill Levy, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	January 29, 2026
DOCKET	2023-04594
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of Supreme Court, New York County, entered after a jury trial, convicting him of assault in the second degree and criminal possession of a weapon in the fourth degree and sentencing him to an aggregate term of five years of probation.
STANDARD OF REVIEW	The court reviewed the sufficiency of the evidence as a matter of law and the weight of the evidence under the applicable New York standard; reviewed the admission of audio evidence for abuse of discretion; and reviewed the unpreserved claims only for interest-of-justice purposes. The propriety of a justification charge was assessed under whether there was a reasonable view of the evidence, viewed in the light most favorable to defendant, supporting the charge.
PRECEDENTIAL VALUE	Published intermediate appellate decision

PARTIES

Lucas Almonte, Defendant-Appellant v. The People of the State of New York, Respondent

TOPICS

criminal procedure evidence self defense preservation of error appellate procedure

PRACTICE AREAS

New York criminal law criminal procedure evidence appellate practice

QUESTIONS PRESENTED

1. Whether the evidence was legally sufficient and the verdict was against the weight of the evidence.
2. Whether the evidence established that the object used by defendant was a dangerous instrument and caused the victim's injuries.
3. Whether the trial court was required to give a justification charge.
4. Whether the audio portion of the video, the partial translation of the audio, and the court's response to the jury's translation-related note were properly handled.
5. Whether defendant's unpreserved claims should be reviewed in the interest of justice.

HOLDINGS

1. The verdict was supported by legally sufficient evidence and was not against the weight of the evidence.
2. The People were not required to prove the precise identity of the object to establish that defendant used a dangerous instrument.
3. Defendant's claim that the court should have given a justification charge was unpreserved, and the court declined to review it in the interest of justice. Alternatively, the trial court properly denied the initial request because no reasonable view of the evidence supported the charge.
4. The trial court did not abuse its discretion by admitting the partially audible and intelligible audio portion of the video or by admitting the court translator's partial interpretation of the audio.
5. The trial court gave a meaningful response to the jury's request to translate the word 'Botellaso.'

KEY QUOTATIONS

*"There is no requirement that the People prove what the object was in order to establish the use of a "dangerous instrument"" ([*1])*

*"The audio constituted critical evidence that presented a sufficient context that the jurors would not need to speculate to understand its significance." ([*1])*

*"The court conveyed that the word in the jury's note was not evidence on which the jury could rely in reaching a verdict." ([*1])*

FACTUAL BACKGROUND

Defendant struck the victim with an object contained in a bag, causing the victim's injuries. The evidence supported an inference that the object was readily capable of causing serious physical injury under the circumstances of its use, although the People did not identify the object. The victim had not physically menaced or verbally threatened defendant or the codefendants, and defendant was the initial aggressor. A video containing partially audible Spanish-language audio was admitted, including a translated phrase, and the jury later asked the court to translate another word it had heard.

PROCEDURAL HISTORY

Supreme Court, New York County, rendered judgment on August 7, 2023, after a jury convicted defendant of assault in the second degree and criminal possession of a weapon in the fourth degree. Defendant appealed, challenging the sufficiency and weight of the evidence, the failure to give a justification charge, the admission and translation of audio evidence, and the court's response to a jury note. The Appellate Division unanimously affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Danielson, 9 NY3d 342, 348-349 [2007]
- People v. Baque, 43 NY3d 26 [2024]
- People v. Carter, 53 NY2d 113, 116 [1981]
- Matter of Tyreek G., 84 AD3d 592 [1st Dept 2011]
- People v. McBride, 203 AD2d 85, 86 [1st Dept 1994], lv denied 83 NY2d 912 [1994]
- People v. Hamer, 69 AD3d 484, 484-485 [1st Dept 2010], lv denied 15 NY3d 750 [2010]
- People v. Bright, 261 AD2d 192, 193 [1st Dept 1999], lv denied 93 NY2d 967 [1999]
- People v. Garcia, 59 AD3d 211, 212 [1st Dept 2009], lv denied 12 NY3d 853 [2009]
- People v. Perez, 308 AD2d 359, 360 [1st Dept 2003], lv denied 1 NY3d 577 [2003]
- People v. Colon, 176 AD3d 419, 420 [1st Dept 2019], lv denied 34 NY3d 1077 [2019]
- People v. Rivera, 257 AD2d 172, 176 [1st Dept 1999], affd 94 NY2d 908 [2000]
- People v. Dalton, 164 AD3d 1645, 1645 [4th Dept 2018], lv denied 32 NY3d 1170 [2019]
- People v. Aguilar, 41 NY3d 335, 338 [2024]
- People v. Almodovar, 62 NY2d 126, 131 [1984]