

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

People v. Ablakatov

2021 N.Y. Slip Op. 03285 (App. Div. 2021) · No. Appeal No. 13900; Case No. 2014-1187; Ind. No. 5756/12 ·
Decided May 25, 2021

SUMMARY

The Appellate Division, First Department unanimously affirmed the defendant's convictions for two counts of second-degree robbery and concurrent five-year sentences. The court rejected challenges to the weight of the evidence, the physical-injury element, jury credibility determinations, and the trial court's Sandoval ruling.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Renwick, J.P.; Webber, J.; González, J.; Scarpulla, J.
JURISDICTION	New York
DECIDED	May 25, 2021
DOCKET	Appeal No. 13900; Case No. 2014-1187; Ind. No. 5756/12
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Supreme Court, New York County, entered after a jury trial that convicted him of two counts of robbery in the second degree and imposed concurrent five-year sentences.
STANDARD OF REVIEW	The court reviewed whether the verdict was against the weight of the evidence, reviewed the preserved Sandoval challenge for abuse of discretion, and declined to review the unpreserved portion in the interest of justice.
PRECEDENTIAL VALUE	published
PARTIES	Alo L. Ablakatov v. The People of the State of New York

TOPICS

- criminal procedure
- evidence
- impeachment
- preservation of error
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

appellate practice

evidence

QUESTIONS PRESENTED

1. Whether the verdicts convicting defendant of two counts of robbery in the second degree were against the weight of the evidence.
2. Whether the evidence supported the physical-injury element of one robbery conviction.
3. Whether the trial court's Sandoval ruling was an abuse of discretion.
4. Whether the court's failure to consider that defendant's felony conviction was pending appeal required reversal or violated his right against self-incrimination.

HOLDINGS

1. The verdict was not against the weight of the evidence.
2. Defendant's challenge to the physical-injury element of one robbery conviction was unavailing.
3. The preserved portion of defendant's Sandoval claim did not warrant relief because the trial court balanced the appropriate factors and acted within its discretion.
4. The unpreserved portion of defendant's Sandoval claim was not reviewed in the interest of justice and, alternatively, was unavailing on the merits.

KEY QUOTATIONS

“The court was never alerted to the fact that defendant's felony conviction was pending on appeal.” ([*1])

“In any event, there was no risk that the ruling would violate defendant's right against self-incrimination” ([*1])

FACTUAL BACKGROUND

After a jury trial, defendant was convicted of two counts of robbery in the second degree. The evidence included the victim's testimony describing painful injuries to the rib area and hand, corroborating evidence, and the jury's credibility determinations. The trial court permitted the prosecutor to ask defendant only whether he had been convicted of a felony, while precluding inquiry into the underlying facts of that conviction.

PROCEDURAL HISTORY

The Supreme Court, New York County, rendered judgment on July 31, 2013, later amended on December 6, 2017, and March 7, 2018. Defendant appealed, challenging the weight and sufficiency-related aspects of the robbery convictions, the physical-injury element, and the court's Sandoval ruling. The Appellate Division unanimously affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Danielson, 9 N.Y.3d 342, 348-349 (2007)
- People v. Chiddick, 8 N.Y.3d 445, 447 (2007)
- People v. Guidice, 83 N.Y.2d 630, 636 (1994)
- People v. Hayes, 97 N.Y.2d 203 (2002)
- People v. Walker, 83 N.Y.2d 455, 458-459 (1994)
- People v. Cantave, 21 N.Y.3d 374, 381 (2013)

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