

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

People v. Pedraza

Pedraza, 2026 NY Slip Op 03368 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Ind. No. 58/00; Appeal No. 6737; Case No. 2022-03804 · Decided May 28, 2026

SUMMARY

The Appellate Division, First Department unanimously affirmed the denial of Eugenia Pedraza’s CPL 440.10 motion to vacate her 2002 judgment of conviction. The court held that her ineffective-assistance claim based on counsel’s failure to negotiate an immigration-favorable plea was speculative and that, because her conviction predated Padilla v. Kentucky, the alleged failure to advise her of immigration consequences was not a cognizable basis for relief.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Gesmer, J.P.; Shulman, J.; Rodriguez, J.; O'Neill Levy, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, First Department
DECIDED	May 28, 2026
DOCKET	Ind. No. 58/00; Appeal No. 6737; Case No. 2022-03804
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from an order of Supreme Court, Bronx County, denying her CPL 440.10 motion to vacate a judgment of conviction.
STANDARD OF REVIEW	Whether Supreme Court providently exercised its discretion in denying the CPL 440.10 motion without a hearing.
PRECEDENTIAL VALUE	Published
PARTIES	Eugenia Pedraza, Defendant-Appellant v. The People of the State of New York, Respondent

TOPICS

- ineffective assistance
- plea bargaining
- post-conviction relief
- criminal procedure
- immigration

PRACTICE AREAS

criminal procedure

post-conviction relief

ineffective assistance

plea bargaining

immigration

QUESTIONS PRESENTED

1. Whether Supreme Court properly denied, without a hearing, defendant's CPL 440.10 claim that trial counsel was ineffective for failing to negotiate an immigration-favorable plea.
2. Whether defendant could obtain vacatur or a hearing based on counsel's alleged failure to advise her of the adverse immigration consequences of her plea when her conviction became final before *Padilla v. Kentucky*.

HOLDINGS

1. The motion court properly denied the claim without a hearing because the claim was speculative and the submitted evidence failed to establish a reasonable probability that the People would have made an immigration-favorable plea offer.
2. Because defendant's conviction became final before *Padilla v. Kentucky*, the alleged failure to advise her of adverse immigration consequences was not a cognizable basis under either the United States or New York Constitutions for vacatur or a hearing.

KEY QUOTATIONS

*"For a defendant whose conviction became final before the United States Supreme Court's decision in Padilla v Kentucky (559 US 356, 373-374 [2010]), such a defendant "has no basis under either the United States or New York Constitutions for claiming that the alleged lack of immigration advice constituted ineffective assistance of counsel"" ([*1])*

FACTUAL BACKGROUND

Defendant was convicted on June 13, 2002. In her CPL 440.10 motion, she alleged that trial counsel was ineffective for failing to negotiate an immigration-favorable plea and for failing to advise her of the adverse immigration consequences of her plea. The motion evidence did not establish a reasonable probability that the People would have made an immigration-favorable plea offer.

PROCEDURAL HISTORY

Defendant was convicted on June 13, 2002. Supreme Court, Bronx County, entered an order on or about February 7, 2022, denying defendant's motion under CPL 440.10 to vacate the judgment. The Appellate Division unanimously affirmed insofar as the order was appealed from.

DISPOSITION

affirmed

CASES CITED

- People v. George, 183 AD3d 436, 437 [1st Dept 2020]
- Lafler v. Cooper, 566 U.S. 156, 163-164 [2012]
- People v. Olivero, 130 AD3d 479, 480 [1st Dept 2015], lv denied 26 NY3d 1042 [2015]
- Padilla v. Kentucky, 559 U.S. 356, 373-374 [2010]
- People v. Llibre, 125 AD3d 422, 423 [1st Dept 2013], lv denied 26 NY3d 969 [2015]
- Chaidez v. United States, 568 U.S. 343 [2013]

OPINION

People v. Pedraza 2026 NY Slip Op 03368

PER CURIAM.

People v Pedraza - 2026 NY Slip Op 03368 skip to main content

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2026 NY Slip Op 03368

May 28, 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

Eugenia Pedraza, Defendant-Appellant.

Decided and Entered: May 28, 2026

Ind No. 58/00|Appeal No. 6737|Case No. 2022-03804|

Before: Gesmer, J.P., Shulman, Rodriguez, O'Neill Levy, JJ.

Jenay Nurse Guilford, Center for Appellate Litigation, New York (Gabriella Raya Agranat-Getz of counsel), for appellant.

Darcel D. Clark, District Attorney, Bronx (Brian Witthuhn of counsel), for respondent.

*1

Order, Supreme Court, Bronx County (LinÉt M. Rosado, J.), entered on or about February 7, 2022, which insofar as appealed from, denied defendant's CPL 440.10 motion to vacate a judgment of conviction rendered June 13, 2002, unanimously affirmed.

The court providently exercised its discretion in denying, without a hearing, defendant's motion to vacate the judgment based on her claim of ineffective assistance of counsel by her trial counsel's failure to negotiate an immigration-favorable plea, as that claim was speculative (*cf* People v George, 183 AD3d 436, 437 [1st Dept 2020]). Moreover, the evidence submitted on the motion failed to establish any reasonable probability that the People would have made such an offer (*see* Lafler v Cooper, 566 US 156, 163-164 [2012]; *People v Olivero*, 130 AD3d 479, 480 [1st Dept 2015], *lv denied* 26 NY3d 1042 [2015]).

To the extent defendant's claim is based on defense counsel's failure to advise her of the adverse immigration consequences of her plea, the court correctly concluded that

is not a cognizable basis for vacatur or a hearing. For a defendant whose conviction became final before the United States Supreme Court's decision in *Padilla v Kentucky* (559 US 356, 373-374 [2010]), such a defendant "has no basis under either the United States or New York Constitutions for claiming that the alleged lack of immigration advice constituted ineffective assistance of counsel" (*People v Llibre*, 125 AD3d 422, 423 [1st Dept 2013], lv denied 26 NY3d 969 [2015]; see *Chaidez v United States*, 568 US 343 [2013] [*Padilla* does not have retroactive application]). Defendant was convicted on June 13, 2002.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: May 28, 2026

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PER CURIAM.

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is based on defense counsel's failure to advise her of the adverse immigration consequences of her plea, the court correctly concluded that is not a cognizable basis for vacatur or a hearing. For a defendant whose conviction became final before the United States Supreme Court's decision in *Padilla v Kentucky* (559 US 356, 373-374 [2010]), such a defendant "has no basis under either the United States or New York Constitutions for claiming that the alleged lack of immigration advice constituted ineffective assistance of counsel" (*People v Llibre* , 125 AD3d 422, 423 [1st Dept 2013], lv denied 26 NY3d 969 [2015]; see *Chaidez v United States* , 568 US 343 [2013] [*Padilla* does not have retroactive application]). Defendant was convicted on June 13, 2002. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: May 28, 2026 Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.