

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]

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