

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

People v. Acosta

2026 NY Slip Op 00324 (N.Y. Ct. App. 2026) · No. Ind. No. 71886/23; Appeal No. 5657; Case No. 2024-03381
· Decided January 27, 2026

SUMMARY

The Appellate Division, First Department modified the defendant's judgment by striking the condition of probation requiring payment of mandatory surcharges and court fees, and otherwise affirmed. The court held that the defendant's waiver of appellate rights did not foreclose his challenge to that probation condition, which was not reasonably related to rehabilitation given his indigence and circumstances. The court declined to review unpreserved constitutional challenges to other probation conditions and held that the issue concerning a certificate of relief from disabilities was not properly appealable.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Moulton, J.P.; Mendez, J.; Rodriguez, J.; Rosado, J.; Hagler, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	January 27, 2026
DOCKET	Ind. No. 71886/23; Appeal No. 5657; Case No. 2024-03381
DISPOSITION	other
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Supreme Court, Bronx County, entered after his guilty plea and sentencing to four years of probation. The Appellate Division modified the judgment by striking the probation condition requiring payment of the mandatory surcharge and court fees, and otherwise affirmed.
STANDARD OF REVIEW	A sentence will not be reduced absent a basis for doing so; unpreserved constitutional challenges may be reviewed only in the court's interest-of-justice jurisdiction. Whether a probation condition is reasonably necessary and related to rehabilitation is determined in light of the particular circumstances of the defendant's case.
PRECEDENTIAL VALUE	Published opinion of the Appellate Division, First Department

PARTIES

Anolvis Acosta, Defendant-Appellant v. The People of the State of New York, Respondent

TOPICS

probation

appellate procedure

preservation of error

first amendment

criminal procedure

PRACTICE AREAS

criminal procedure

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether defendant's valid waiver of the right to appeal foreclosed review of his excessive-sentence claim.
2. Whether requiring an indigent first-time offender with sporadic income to pay mandatory surcharges and court fees as a condition of probation was reasonably necessary and related to rehabilitation.
3. Whether defendant's constitutional vagueness, overbreadth, and First Amendment challenges to certain probation conditions were preserved for appellate review.
4. Whether the deferred issuance of a certificate of relief from disabilities was part of the criminal judgment and appealable from the judgment of conviction.

HOLDINGS

1. Defendant's valid waiver of the right to appeal foreclosed appellate review of his claim that the sentence was excessive.
2. The condition requiring defendant to pay \$375 in mandatory surcharges and court fees as a condition of probation was stricken because, under the circumstances, it was not reasonably necessary to ensure a law-abiding life and was not reasonably related to rehabilitation.
3. Defendant's constitutional challenges to probation conditions 7 and 24 were unpreserved because they were raised for the first time on appeal, and the court declined to review them in the interest of justice.
4. The deferred issuance of the certificate of relief from disabilities was not properly before the Appellate Division because it was not part of the judgment and therefore was not appealable from the judgment of conviction.

KEY QUOTATIONS

*"the requirement that he pay a total of \$375 in surcharges and fees as a condition of probation "will not assist in ensuring [that] he leads a law-abiding life and is not reasonably related to his rehabilitation"" ([*1])*

*"This constitutes the decision and order of the Supreme Court, Appellate Division, First Department." ([*1])*

FACTUAL BACKGROUND

Defendant pleaded guilty to attempted criminal possession of a weapon in the second degree and received four years of probation. He was indigent, a first-time offender, had only sporadic income, and was otherwise supported by his mother. His probation required payment of \$375 in mandatory surcharges and court fees, as well as conditions concerning habits, associations, and gang paraphernalia or affiliation.

PROCEDURAL HISTORY

The Supreme Court, Bronx County, convicted defendant upon his guilty plea to attempted criminal possession of a weapon in the second degree and sentenced him to four years of probation. Defendant appealed, challenging the sentence, probation conditions, and the deferral of a certificate of relief from disabilities. The Appellate Division struck the surcharge-and-fee condition, declined to review unpreserved constitutional challenges in the interest of justice, and held that the certificate-of-relief issue was not appealable from the judgment.

DISPOSITION

other

CASES CITED

- People v. Thomas, 34 NY3d 545, 559 [2019], cert denied 589 US —, 140 S Ct 2634 [2020]
- People v. Arias, 210 AD3d 593, 594 [1st Dept 2022], lv denied 39 NY3d 1109 [2023]
- People v. Hale, 93 NY2d 454, 461 [1999]
- People v. Percy, 234 AD3d 619, 620 [1st Dept 2025]
- People v. Cabrera, 41 NY3d 35, 43 [2023]
- People v. Rivera, 242 AD3d 421, 422 [1st Dept 2025]
- People v. Lowndes, 239 AD3d 574, 575 [1st Dept 2025], lv denied 44 NY3d 1012 [2025]
- People v. Nieves, 2 NY3d 310, 314-315 [2004]