

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

People v. D.H.

2026 NY Slip Op 01316 · No. Ind. No. 73020/23; Appeal No. 6025; Case No. 2024-03160 · Decided March 10,  
2026

SUMMARY

The Appellate Division, First Department, unanimously affirmed defendant D.H.'s judgment of conviction for criminal possession of a firearm and three-year probationary sentence. The court held that defendant's Second Amendment challenges to firearm-licensing requirements were unpreserved and, alternatively, lacked merit under *New York State Rifle & Pistol Association, Inc. v. Bruen*. The court also held that defendant's ineffective-assistance claim was unreviewable on direct appeal and found no basis to reduce the sentence.

CASE DETAILS

|                       |                                                                                                                                                                                                                              |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of New York, Appellate Division, First Department                                                                                                                                                 |
| WRITING FOR THE COURT | Renwick, P.J.; Kennedy, J.; Friedman, J.; Mendez, J.; Hagler, J.                                                                                                                                                             |
| JURISDICTION          | New York Supreme Court, Appellate Division, First Department                                                                                                                                                                 |
| DECIDED               | March 10, 2026                                                                                                                                                                                                               |
| DOCKET                | Ind. No. 73020/23; Appeal No. 6025; Case No. 2024-03160                                                                                                                                                                      |
| DISPOSITION           | affirmed                                                                                                                                                                                                                     |
| PROCEDURAL POSTURE    | Defendant appealed from a judgment of Supreme Court, New York County, entered after her guilty plea, conviction, youthful-offender adjudication, and sentence to three years of probation.                                   |
| STANDARD OF REVIEW    | Unpreserved constitutional claims were reviewed for possible interest-of-justice consideration; the ineffective-assistance claim was deemed unreviewable on direct appeal because it depended on matters outside the record. |
| PRECEDENTIAL VALUE    | Published opinion of the New York Supreme Court, Appellate Division, First Department.                                                                                                                                       |
| PARTIES               | D.H., Defendant-Appellant v. The People of the State of New York, Respondent                                                                                                                                                 |

## TOPICS

second amendment

criminal procedure

ineffective assistance

appellate procedure

preservation of error

## PRACTICE AREAS

criminal law

constitutional law

appellate practice

## QUESTIONS PRESENTED

1. Whether defendant's Second Amendment challenges to New York's gun-license requirements were preserved for appellate review or should be reviewed in the interest of justice.
2. Whether defendant had standing to assert facial Second Amendment challenges despite never applying for a gun license.
3. Whether defendant's firearm-possession conviction was unconstitutional under New York State Rifle & Pistol Association, Inc. v. Bruen.
4. Whether counsel was ineffective for failing to preserve defendant's Second Amendment claims.
5. Whether defendant's sentence should be reduced.

## HOLDINGS

1. Defendant's Second Amendment challenges to the requirements that gun-license applicants demonstrate good moral character and have not been convicted of a felony were unpreserved, and the court declined to review them in the interest of justice.
2. Defendant had standing to assert facial challenges to the gun-license requirements notwithstanding that she never applied for a license.
3. Defendant failed to establish that her conviction was unconstitutional under New York State Rifle & Pistol Association, Inc. v. Bruen.
4. Defendant's claim that counsel was ineffective for failing to preserve her Second Amendment claims was unreviewable on direct appeal because it involved matters not reflected in the record; in any event, counsel was not ineffective because the claims had little or no chance of success.
5. There was no basis to reduce defendant's sentence.

## KEY QUOTATIONS

*"In any event, counsel was not ineffective insofar as the claims had 'little or no chance of success'"*

## FACTUAL BACKGROUND

Defendant was convicted upon her guilty plea of criminal possession of a firearm. She was adjudicated a youthful offender and sentenced to three years of probation. On appeal, she challenged under the Second Amendment the requirements that gun-license applicants demonstrate good moral character and have no felony conviction, and alleged that counsel was ineffective for failing to preserve those claims.

## PROCEDURAL HISTORY

Supreme Court, New York County, rendered judgment on May 2, 2024, convicting defendant upon her guilty plea to criminal possession of a firearm, adjudicating her a youthful offender, and sentencing her to three years of probation. The Appellate Division unanimously affirmed.

## DISPOSITION

affirmed

## CASES CITED

- People v. Cabrera, 41 NY3d 35, 42-51 (2023)
- People v. Johnson, — NY3d —, 2025 NY Slip Op 06528, \*2 (2025)
- New York State Rifle & Pistol Association, Inc. v. Bruen, 597 U.S. 1 (2022)
- People v. Guzman, 237 AD3d 570, 571 (1st Dept 2025), lv denied 44 NY3d 993 (2025)
- People v. Hooks, 242 AD3d 463, 463 (1st Dept 2025)
- People v. Williams, 237 AD3d 569, 570 (1st Dept 2025), lv denied 44 NY3d 1014 (2025)
- People v. Caban, 5 NY3d 143, 152 (2005)