

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

People v. Butts

2025 NY Slip Op 07041 · No. 112910 · Decided December 18, 2025

SUMMARY

The Appellate Division, Third Department affirmed Jalil A. Butts's convictions for criminal possession of a weapon in the second degree and assault in the second degree arising from a shooting. The court held that the evidence was legally sufficient and not against the weight of the evidence under an accomplice-liability theory, and that accomplice testimony was adequately corroborated. The court also upheld the denial of a missing-witness charge and rejected the defendant's remaining claims as unpreserved, meritless, or insufficient to warrant relief.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Appellate Division of the Supreme Court of the State of New York, Third Department                                                                                                                                                                                                                                                                                                                                                                   |
| WRITING FOR THE COURT | Lynch, J.; Clark, J.P.; Reynolds Fitzgerald, J.; Ceresia, J.; Powers, J.                                                                                                                                                                                                                                                                                                                                                                             |
| JURISDICTION          | New York Supreme Court, Appellate Division, Third Department                                                                                                                                                                                                                                                                                                                                                                                         |
| DECIDED               | December 18, 2025                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| DOCKET                | 112910                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | Defendant appealed from a County Court judgment entered after a joint jury trial, challenging the legal sufficiency and weight of the evidence, the denial of a missing witness charge, identification-hearing issues, jury-instruction issues, alleged prosecutorial misconduct, ineffective assistance, and sentence severity.                                                                                                                     |
| STANDARD OF REVIEW    | Legal sufficiency was reviewed in the light most favorable to the People; the weight-of-the-evidence claim was reviewed by evaluating the evidence in a neutral light and considering the relative probative force of conflicting testimony and inferences. The denial of a missing witness charge was reviewed for abuse of discretion. The sentence was reviewed under the interest-of-justice standard for whether it was unduly harsh or severe. |
| PRECEDENTIAL VALUE    | published                                                                                                                                                                                                                                                                                                                                                                                                                                            |

## **PARTIES**

Jalil A. Butts, also known as J-Dot v. The People of the State of New York

## **TOPICS**

criminal procedure

evidence

appellate procedure

standard of review

preservation of error

## **PRACTICE AREAS**

criminal law

criminal procedure

appellate criminal procedure

evidence

## **QUESTIONS PRESENTED**

1. Whether the evidence was legally sufficient to support defendant's convictions for criminal possession of a weapon in the second degree and assault in the second degree under an accomplice-liability theory.
2. Whether the convictions were against the weight of the evidence.
3. Whether the testimony of an accomplice was sufficiently corroborated under CPL 60.22.
4. Whether County Court erred in refusing to give a missing witness charge concerning Revis.
5. Whether County Court was required to hold a Wade hearing concerning witness 1's identification of defendant.
6. Whether a circumstantial-evidence charge was required.
7. Whether defendant's sentence was unduly harsh or severe.

## **HOLDINGS**

1. A defendant may be convicted of criminal possession of a weapon in the second degree as an accomplice even without direct proof that the defendant possessed or controlled the weapon or was the shooter, so long as the defendant knew the principal possessed the weapon, shared the mental state required for the offense, intentionally aided the conduct, and shared a community of purpose with the principal.
2. The evidence was legally sufficient to establish that defendant, acting as an accomplice, shared the intent to cause physical injury by means of a deadly weapon and intentionally aided the assault.
3. Witness 1's accomplice testimony was sufficiently corroborated under CPL 60.22 because witness 2's testimony and the surveillance video tended to connect defendant with the commission of the crimes.
4. The convictions were not against the weight of the evidence.
5. County Court properly denied defendant's request for a missing witness charge concerning Revis because defendant failed to show that Revis's testimony would be favorable to the People.
6. County Court was not required to hold a Wade hearing concerning witness 1's photo-array identification because the witness was sufficiently familiar with defendant that there was little or no risk of police suggestion causing misidentification.
7. A circumstantial-evidence charge was not required because the People's case rested on both direct and circumstantial evidence; defendant's related ineffective-assistance claim therefore lacked merit.

## KEY QUOTATIONS

*“Accessory liability does not require that [an accomplice] either possess or have control over the weapon, or that he or she give it to the person who uses it, or even that he or she importunes its use aloud” (at 5)*

*“This sequence of events, showing a deliberative plan to follow the sedan, culminating in the shooting once the vehicle stopped, reveals a community of purpose between defendant and Jones to commit the offense” (at 6)*

## FACTUAL BACKGROUND

After a performance at a Binghamton music venue, the victim was riding in a sedan driven by Keshawn Revis when a Chevrolet Equinox followed them onto Chenango Street. The SUV pulled alongside the sedan, and the victim was shot in the arm; surveillance video corroborated the vehicles' movements. Witnesses testified that defendant and Antonio M. Jones had discussed bringing a gun, that defendant repeatedly asked Jones for the gun, that defendant and Jones directed the SUV driver to follow and approach the victim's vehicle, and that defendant told the occupants not to speak after the shooting. No firearm or shell casings were recovered, but the evidence supported the conclusion that Jones possessed the revolver and that defendant acted in concert with him.

## PROCEDURAL HISTORY

Defendant was indicted for attempted murder in the second degree, criminal possession of a weapon in the second degree, and assault in the second degree arising from a March 2019 shooting. The indictments against defendant and Antonio M. Jones were consolidated, and a joint jury acquitted defendant of attempted murder but convicted him of weapon possession and assault. County Court imposed concurrent sentences, and the Appellate Division affirmed. An earlier affirmance was vacated because the People's appellate attorney had personal and substantial involvement in the matter as a trial-court law clerk; the case was remitted for appointment of a special prosecutor and restored to the appellate calendar. The court again affirmed.

## DISPOSITION

affirmed

## CASES CITED

- People v. Bryant, 200 AD3d 1483, 1486 (3d Dept 2021), appeal dismissed, 38 NY3d 1158 (2022)
- People v. Manini, 79 NY2d 561, 573 (1992)
- People v. Rivera, 212 AD3d 942, 945 (3d Dept 2023), lv denied, 39 NY3d 1113 (2023)
- People v. Williams, 179 AD3d 1502, 1502 (4th Dept 2020), lv denied, 35 NY3d 995 (2020)
- People v. James, 176 AD3d 1492, 1493-1494 (3d Dept 2019), lv denied, 34 NY3d 1078 (2019)
- People v. Jones, 215 AD3d 1123, 1128-1129 (3d Dept 2023), lv denied, 40 NY3d 935 (2023)
- People v. Reome, 15 NY3d 188, 192 (2010)
- People v. Monaco, 14 NY2d 43, 45 (1964)
- People v. Guevara, 240 AD3d 1083, 1085, 1088-1089 (3d Dept 2025)

- People v. Sanchez, 32 NY3d 1021, 1022 (2018)
- People v. Dennis, 221 AD3d 1278, 1281 (3d Dept 2023), lv denied, 40 NY3d 1091 (2024)
- People v. Lorenz, 211 AD3d 1109, 1112 (3d Dept 2022), lv denied, 39 NY3d 1112 (2023)
- People v. Martinez, 166 AD3d 1292, 1296 (3d Dept 2018), lv denied, 32 NY3d 1207 (2019)
- People v. Onyia, 70 AD3d 1202, 1204 (3d Dept 2010)
- People v. Lawing, 119 AD3d 1149, 1150 (3d Dept 2014), lv denied, 24 NY3d 1121 (2015)
- People v. Smith, 33 NY3d 454, 458 (2019)
- People v. Decker, 218 AD3d 1026, 1042 (3d Dept 2023), lv denied, 40 NY3d 1012 (2023)
- People v. Casanova, 119 AD3d 976, 980 (3d Dept 2014)
- People v. Smith, 137 AD3d 1323, 1326-1327 (3d Dept 2016), lv denied, 28 NY3d 974 (2016)
- People v. Hilton, 185 AD3d 1147, 1151 (3d Dept 2020), lv denied, 35 NY3d 1095 (2020)
- People v. Hardy, 26 NY3d 245, 249 (2015)
- People v. Roldan, 88 NY2d 826, 827 (1996)
- People v. Luna, 228 AD3d 1061, 1067 (3d Dept 2024), lv denied, 42 NY3d 971 (2024)
- People v. Taylor, 196 AD3d 851, 854 (3d Dept 2021), lv denied, 37 NY3d 1030 (2021)
- People v. Butts, 226 AD3d 1089 (3d Dept 2024)
- People v. Butts, 229 AD3d 856, 857 (3d Dept 2024)