

**SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT**

People v. Carranza

2022 N.Y. Slip Op. 00873 (App. Div. 2d Dep't 2022) · No. 2021-02604 · Decided February 9, 2022

SUMMARY

The Appellate Division, Second Department granted assigned counsel's motion to withdraw under *Anders v. California* and assigned new counsel to represent the defendant on appeal. The court identified nonfrivolous issues concerning youthful offender status and whether certain surcharges and fees could be waived, and established deadlines for appellate briefing.

OPINION

PER CURIAM.

People v Carranza (2022 NY Slip Op 00873) People v Carranza 2022 NY Slip Op 00873 Decided on February 9, 2022 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on February 9, 2022 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department ANGELA G. IANNACCI, J.P.

ROBERT J. MILLER JOSEPH J. MALTESE WILLIAM G. FORD, JJ. 2021-02604 (Ind. No. 1366/19) [*1]The People of the State of New York, respondent, vJonathan Gutierrez Carranza, appellant. Leon H. Tracy, Jericho, NY, for appellant. Anne T. Donnelly, District Attorney, Mineola, NY (Tammy J. Smiley and Madeline Collins of counsel), for respondent. DECISION & ORDER Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Helene F. Gugerty, J.), rendered March 10, 2021, convicting him of assault in the second degree, upon his plea of guilty, and imposing sentence.

Assigned counsel has submitted a brief in accordance with *Anders v California* (386 US 738), in which he moves for leave to withdraw as counsel for the appellant. ORDERED that the motion of Leon H. Tracy for leave to withdraw as counsel for the appellant is granted, and he is directed to turn over all papers in his possession to new counsel assigned herein; and it is further, ORDERED that Jillian S. Harrington, P.O.

Box 131621, Staten Island, New York 10313, is assigned as counsel to prosecute the appeal; and it is further, ORDERED that the respondent is directed to furnish a copy of the certified transcript of the proceedings to the appellant's new assigned counsel; and it is further, ORDERED that new

counsel shall serve and file a brief on behalf of the appellant within 90 days of the date of this decision and order on motion, and the respondent shall serve and file its brief within 30 days after the brief on behalf of the appellant is served and filed.

By order dated February 23, 2021, the Supreme Court, Nassau County, granted an application pursuant to CPL 380.55 for poor person relief. By prior decision and order on motion dated April 14, 2021, this Court directed that the appeal be heard on the original papers (including a certified transcript of the proceedings, if any) and on the briefs of the parties.

The parties are directed to upload, through the digital portal on this Court's website, digital copies of their respective briefs, with proof of service of one hard copy on each other (see 22 NYCRR 670.9[a]). While we are satisfied with the sufficiency of the brief filed by assigned counsel, upon this Court's independent review of the record, we conclude that nonfrivolous issues exist, including, but not necessarily limited to, whether the defendant was entitled to youthful offender status (see *People v Rudolph*, 21 NY3d 497, 501; *People v Slide*, 197 AD3d 1184) and whether the surcharge and fees assessed could be waived (see *People v Sevaughn G.*, 199 AD3d 936; *People v Dyshawn* [*2]B., 196 AD3d 638).

Accordingly, we must assign new counsel to represent the defendant. IANNACCI, J.P., MILLER, MALTESE and FORD, JJ., concur. ENTER: Maria T. Fasulo Clerk of the Court