

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.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Angela G. Iannacci, J.P.; Robert J. Miller, J.; Joseph J. Maltese, J.; William G. Ford, J.
JURISDICTION	New York
DECIDED	February 9, 2022
DOCKET	2021-02604
DISPOSITION	other
PROCEDURAL POSTURE	The defendant appealed from a judgment of the Supreme Court, Nassau County, entered after his guilty plea and sentence for assault in the second degree. Assigned appellate counsel filed an <i>Anders</i> brief and moved to withdraw. The Appellate Division independently reviewed the record and ordered substitution of counsel because nonfrivolous appellate issues existed.
STANDARD OF REVIEW	Independent review of the record to determine whether nonfrivolous issues exist after submission of an <i>Anders</i> brief.
PRECEDENTIAL VALUE	Published intermediate appellate decision
PARTIES	Jonathan Gutierrez Carranza v. The People of the State of New York

TOPICS

- appellate procedure
- criminal procedure
- sentencing
- right to counsel

PRACTICE AREAS

criminal appellate procedure

appellate counsel withdrawal

youthful offender status

criminal sentencing fees

QUESTIONS PRESENTED

1. Whether assigned appellate counsel should be permitted to withdraw under *Anders v. California* after submitting an *Anders* brief.
2. Whether the record presented nonfrivolous issues concerning the defendant's entitlement to youthful offender status.
3. Whether the surcharges and fees imposed could be waived.

HOLDINGS

1. Counsel's brief was sufficient, but independent review disclosed nonfrivolous issues; therefore, counsel was permitted to withdraw and new appellate counsel was assigned.
2. The appeal presented nonfrivolous issues, including whether the defendant was entitled to youthful offender status and whether the assessed surcharge and fees could be waived.

KEY QUOTATIONS

“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” (at *1)

“Accordingly, we must assign new counsel to represent the defendant.” (at *2)

FACTUAL BACKGROUND

Carranza pleaded guilty to assault in the second degree in the Supreme Court, Nassau County, and was sentenced on March 10, 2021. On appeal, assigned counsel concluded that the appeal lacked merit and submitted an *Anders* brief seeking permission to withdraw. The Appellate Division identified potential issues concerning youthful offender status and the waiver of surcharges and fees.

PROCEDURAL HISTORY

The Supreme Court, Nassau County, rendered judgment on March 10, 2021, convicting Carranza upon his plea of guilty and imposing sentence. Poor-person relief was granted, and the appeal was directed to proceed on the original papers and briefs. The Appellate Division granted original counsel's motion to withdraw, assigned new counsel, and directed further briefing rather than resolving the appeal on the merits.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. Original counsel's motion to withdraw was granted; new counsel was assigned, the respondent was directed to provide the certified transcript, and the parties were directed to file appellate briefs according to the specified schedule.

CASES CITED

- Anders v California, 386 US 738
- People v Rudolph, 21 NY3d 497, 501
- People v Slide, 197 AD3d 1184
- People v Sevaughn G., 199 AD3d 936
- People v Dyshawn B., 196 AD3d 638

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