

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

People v. Persaud

2026 NY Slip Op 02853 · No. 2025-00545 · Decided May 6, 2026

SUMMARY

The New York Appellate Division, Second Department modified the defendant's sentence in the interest of justice by reducing postrelease supervision from 20 years to 10 years on convictions for sex trafficking and criminal sexual act in the first degree, while affirming the sentence as modified. The majority held that the appeal waiver was invalid and that the sentence was excessive in part; a dissent would have affirmed the bargained-for sentence.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Francesca E. Connolly, J.P.; Valerie Brathwaite Nelson, J.; Barry E. Warhit, J.; Lourdes M. Ventura, J.; Susan Quirk, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	May 6, 2026
DOCKET	2025-00545
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed, as limited by his motion, from a sentence imposed after his guilty plea, arguing that the sentence was excessive.
STANDARD OF REVIEW	The Appellate Division reviews a sentence under its discretionary interest-of-justice authority to determine whether it is unduly harsh or severe under the circumstances, without deference to the sentencing court. The defendant need not demonstrate extraordinary circumstances or an abuse of discretion.
PRECEDENTIAL VALUE	published
PARTIES	Javesh Persaud v. The People of the State of New York

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QUESTIONS PRESENTED

1. Whether defendant's purported waiver of the right to appeal was valid and precluded review of his excessive-sentence claim.
2. Whether the Appellate Division could modify a sentence imposed pursuant to a guilty plea and negotiated plea bargain under its interest-of-justice sentencing authority.
3. Whether the imposed periods of postrelease supervision were unduly harsh or severe under the circumstances.

HOLDINGS

1. Defendant's purported waiver of the right to appeal was invalid because the County Court made its own offer of sentence and required the waiver without stating a reason for demanding it; the waiver therefore did not preclude appellate review of the excessive-sentence claim.
2. An intermediate appellate court has broad, plenary authority to modify a sentence that is unduly harsh or severe under the circumstances, even when the sentence falls within the permissible statutory range, and may exercise that authority without deference to the sentencing court.
3. The Appellate Division may modify a sentence even when the defendant pleaded guilty and received the sentence for which he bargained.
4. The 20-year periods of postrelease supervision imposed on the sex-trafficking conviction under count 3 and the first-degree criminal-sexual-act conviction were excessive under the circumstances and were properly reduced to 10 years; the 12-year aggregate determinate prison term was not excessive.

KEY QUOTATIONS

*"An intermediate appellate court has broad, plenary power to modify a sentence that is unduly harsh or severe under the circumstances, even though the sentence may be within the permissible statutory range" (*1)*

*"Our sentencing review power "may be exercised, if the interest of justice warrants, without deference to the sentencing court"" (*1)*

*"A defendant need not demonstrate extraordinary circumstances or abuse of discretion by the sentencing court in order to obtain a sentence reduction"" (*1)*

*"The statutes governing this type of appeal draw no distinction between sentences based on verdicts of guilty and those resulting from guilty pleas. In either circumstance the defendant has a statutory right to appeal to the Appellate Division's discretionary power to reduce his [or her] sentence if the interests of justice warrant it"" (*1)*

FACTUAL BACKGROUND

Defendant pleaded guilty to eight offenses arising from his exploitation of an 18-year-old homeless woman whom he brought from Manhattan to Suffolk County after offering food, shelter, and assistance. He then forced her to engage in sexual acts with numerous strangers for his financial benefit and used violence, threats, and sexual assault to compel her compliance. The negotiated plea produced concurrent sentences, including 12 years of imprisonment and 20 years of postrelease supervision on certain convictions.

PROCEDURAL HISTORY

The Suffolk County Court imposed concurrent sentences following defendant's guilty plea to multiple sex-trafficking, prostitution-promotion, and criminal-sexual-act offenses. The Appellate Division held that defendant's purported appeal waiver was invalid, reviewed the excessive-sentence claim, reduced two periods of postrelease supervision from 20 years to 10 years, and affirmed the sentence as modified.

DISPOSITION

affirmed

CASES CITED

- People v. Small, 203 AD3d 756
- People v. Esposito, 187 AD3d 781
- People v. Sutton, 184 AD3d 236, 244-245
- People v. Delgado, 80 NY2d 780, 783
- People v. Thompson, 60 NY2d 513, 519-520
- People v. Kordish, 140 AD3d 981, 982-983
- People v. Farrar, 52 NY2d 302, 305-306
- People v. Brisman, 43 NY3d 322, 324
- People v. Suitte, 90 AD2d 80
- People v. Kerringer, 195 AD3d 861, 862
- People v. Brown, 122 AD3d 133, 146
- People v. Conley, 150 AD3d 1023, 1024