

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

People v. Augustus

2026 NY Slip Op 03317 · No. 2022-02296 · Decided May 27, 2026

SUMMARY

The Appellate Division, Second Department affirmed Tyshawn Augustus's judgment of conviction for second-degree murder following a nonjury trial. The court held that the evidence was legally sufficient, the verdict was not against the weight of the evidence, and the sentence was not excessive.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Mark C. Dillon, J.P.; Paul Wooten, J.; Laurence L. Love, J.; Elena Goldberg Velazquez, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	May 27, 2026
DOCKET	2022-02296
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Supreme Court, Kings County, convicting him of murder in the second degree after a nonjury trial and imposing sentence.
STANDARD OF REVIEW	The court viewed the evidence in the light most favorable to the prosecution when reviewing legal sufficiency. It independently reviewed the weight of the evidence while according great deference to the factfinder's opportunity to view the witnesses, hear the testimony, and observe demeanor. The sentence was reviewed for excessiveness.
PRECEDENTIAL VALUE	Published New York Appellate Division decision; the opinion states that it was published pursuant to Judiciary Law § 431, although it was uncorrected and subject to revision at issuance.
PARTIES	Tyshawn Augustus v. The People of the State of New York

TOPICS

criminal procedure evidence reasonable doubt appellate procedure standard of review

PRACTICE AREAS

criminal law criminal procedure appellate practice evidence

QUESTIONS PRESENTED

1. Whether the evidence was legally sufficient to establish defendant's guilt of second-degree murder, including the requisite intent to kill.
2. Whether the verdict was against the weight of the evidence.
3. Whether the sentence imposed was excessive.

HOLDINGS

1. The evidence was legally sufficient to establish defendant's guilt beyond a reasonable doubt because the circumstantial evidence established a prima facie case of intent to kill.
2. The verdict was not against the weight of the evidence.
3. Homicidal intent may be inferred from the nature and circumstances of a close-range gunshot directed toward the victim's torso in the vicinity of vital organs.
4. The sentence imposed was not excessive.

KEY QUOTATIONS

“Moreover, in fulfilling our responsibility to conduct an independent review of the weight of the evidence, we nevertheless accord great deference to the factfinder's opportunity to view the witnesses, hear the testimony, and observe demeanor” ([*1])

FACTUAL BACKGROUND

The victim was found shot to death with a bullet wound on the back of the left shoulder. The court relied on circumstantial evidence, including the close-range shot, the downward direction of the gun's muzzle toward the victim's torso near vital organs, and surrounding circumstances, to support an inference of intent to kill.

PROCEDURAL HISTORY

Following a nonjury trial in Supreme Court, Kings County, defendant was convicted of murder in the second degree and sentenced in a judgment rendered March 21, 2022. The Appellate Division reviewed the legal sufficiency and weight of the evidence and the excessiveness of the sentence, and affirmed the judgment.

DISPOSITION

affirmed

CASES CITED

- People v. Contes, 60 NY2d 620, 621
- People v. Rodriguez, 242 AD3d 1124, 1124, 1125
- People v. Hughes, 199 AD3d 937, 937-938
- People v. Miller, 81 AD3d 854, 854
- People v. Danielson, 9 NY3d 342, 348
- People v. Baque, 43 NY3d 26, 30
- People v. Bleakley, 69 NY2d 490, 495
- People v. Romero, 7 NY3d 633, 644
- People v. Fils-Amie, 291 AD2d 358, 358-359
- People v. Mason, 254 AD2d 109, 109
- People v. Key, 223 AD3d 755, 756
- People v. Suitte, 90 AD2d 80, 88

OPINION

PER CURIAM.

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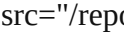
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May 27, 2026

Appellate Division, Second Department

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The People of the State of New York, respondent,

v

Tyshawn Augustus, appellant.

Supreme Court of the State of New York, Appellate Division, Second Judicial Department

Decided on May 27, 2026

2022-02296, (Ind.

No. 9089/12)

Mark C. Dillon, J.P.

Paul Wooten

Laurence L. Love

Elena Goldberg Velazquez, JJ.

Patricia Pazner, New York, NY (Sean H. Murray of counsel), for appellant.

Eric Gonzalez, District Attorney, Brooklyn, NY (Leonard Joblove, Julian Joiris, and Allison Marculitis of counsel), for respondent.

DECISION & ORDER

Appeal by the defendant from a judgment

of the Supreme Court, Kings County (Donald Leo, J.), rendered March 21, 2022, convicting him of murder in the second degree, after a nonjury trial, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant was convicted, after a nonjury trial, of murder in the second degree (Penal Law § 125.25[1]) in connection with the death of the victim, who was found shot to death with a bullet wound on the back of his left shoulder.

Viewing the evidence in the light most favorable to the prosecution (*see* *People v Contes*, 60 NY2d 620, 621; *People v Rodriguez*, 242 AD3d 1124, 1124), we find that it was legally sufficient to establish the defendant's guilt beyond a reasonable doubt, as the circumstantial evidence established a prima facie case as to his intent to kill the victim (*see* *People v Hughes*, 199 AD3d 937, 937-938; *People v Miller*, 81 AD3d 854, 854).

Moreover, in fulfilling our responsibility to conduct an independent review of the weight of the evidence (*see* CPL 470.15[5]; *People v Danielson*, 9 NY3d 342, 348), we nevertheless accord great deference to the factfinder's opportunity to view the witnesses, hear the testimony, and observe demeanor (*see* *People v Baque*, 43 NY3d 26, 30; *People v Bleakley*, 69 NY2d 490, 495).

Upon reviewing the record here, we are satisfied that the verdict of guilt was not against the weight of the evidence (*see* *People v Romero*, 7 NY3d 633, 644; *People v Rodriguez*, 242 AD3d at 1125).

The defendant's homicidal intent could be inferred from, among other things, the close-range gunshot to the victim's shoulder where the muzzle of the gun was pointing down towards the victim's torso in the vicinity of vital organs and the surrounding circumstances (*see* *People v Hughes*, 199 AD3d at 938; *People v Fils-Amie*, 291 AD2d 358, 358-359; *People v Mason*, 254 AD2d 109, 109).

The sentence imposed was not excessive (*see* *People v Key*, 223 AD3d 755, 756; *People v Suite*, 90 AD2d 80, 88).

DILLON, J.P., WOOTEN, LOVE and GOLDBERG VELAZQUEZ, JJ., concur.

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PER CURIAM.

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This decision is uncorrected and subject to revision before publication in the Official Reports. The People of the State of New York, respondent, v Tyshawn Augustus, appellant. Supreme Court of the State of New York, Appellate Division, Second Judicial Department Decided on May 27, 2026 2022-02296, (Ind. No. 9089/12) Mark C. Dillon, J.P. Paul Wooten Laurence L. Love Elena Goldberg Velazquez, JJ. Patricia Pazner, New York, NY (Sean H. Murray of counsel), for appellant.

Eric Gonzalez, District Attorney, Brooklyn, NY (Leonard Joblove, Julian Joiris, and Allison Marculitis of counsel), for respondent. [*1] DECISION & ORDER Appeal by the defendant from a judgment of the Supreme Court, Kings County (Donald Leo, J.), rendered March 21, 2022, convicting him of murder in the second degree, after a nonjury trial, and imposing sentence.

ORDERED that the judgment is affirmed. The defendant was convicted, after a nonjury trial, of murder in the second degree (Penal Law § 125.25[1]) in connection with the death of the victim, who was found shot to death with a bullet wound on the back of his left shoulder. Viewing the evidence in the light most favorable to the prosecution (see People v Contes, 60 NY2d 620, 621; People v Rodriguez, 242 AD3d 1124, 1124), we find that it was legally sufficient to establish the defendant's guilt beyond a reasonable doubt, as the circumstantial evidence established a prima facie case as to his intent to kill the victim (see People v Hughes, 199 AD3d 937, 937-938; People v Miller, 81 AD3d 854, 854).

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Upon reviewing the record here, we are satisfied that the verdict of guilt was not against the weight of the evidence (see People v Romero, 7 NY3d 633, 644; People v Rodriguez, 242 AD3d at 1125). The defendant's homicidal intent could be inferred from, among other things, the close-range gunshot to the victim's shoulder where the muzzle of the gun was pointing down towards the victim's torso in the vicinity of vital organs and the surrounding circumstances (see People v Hughes, 199 AD3d at 938; People v Fils-Amie, 291 AD2d 358, 358-359; People v Mason, 254 AD2d 109, 109).

The sentence imposed was not excessive (see *People v Key*, 223 AD3d 755, 756; *People v Suitte*, 90 AD2d 80, 88). DILLON, J.P., WOOTEN, LOVE and GOLDBERG VELAZQUEZ, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.

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