

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

People v. Garcia

Garcia, 2026 NY Slip Op 02076 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Ind. No. 71139/23; Appeal No. 6271; Case No. 2024-04249 · Decided April 7, 2026

SUMMARY

The Appellate Division, First Department, unanimously affirmed Rene Garcia's conviction and eight-month concurrent sentence for criminal possession of a weapon in the fourth degree. The court held that his waiver of appeal did not bar review of his Second Amendment claim, but found his challenge to New York's firearm licensing scheme's good-moral-character provision unpreserved and, alternatively, meritless; it also rejected his ineffective-assistance claim.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Webber, J.P.; Kennedy, J.; Kapnick, J.; González, J.; O'Neill Levy, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	April 7, 2026
DOCKET	Ind. No. 71139/23; Appeal No. 6271; Case No. 2024-04249
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Supreme Court, Bronx County, entered after his guilty plea and sentencing for criminal possession of a weapon in the fourth degree.
STANDARD OF REVIEW	The court applied preservation principles, declined to review the unpreserved constitutional claim in the interest of justice, considered the alternative merits determination, and treated the ineffective-assistance claim as generally unreviewable on direct appeal when it depended on matters outside the record.
PRECEDENTIAL VALUE	Published appellate decision
PARTIES	Rene Garcia v. The People of the State of New York

TOPICS

second amendment

ineffective assistance

preservation of error

appellate procedure

criminal procedure

PRACTICE AREAS

criminal procedure

constitutional law

appellate procedure

ineffective assistance of counsel

firearms regulation

QUESTIONS PRESENTED

1. Whether Garcia's waiver of the right to appeal barred appellate review of his Second Amendment challenge to New York's firearm licensing scheme.
2. Whether Garcia had standing to challenge the constitutionality of New York's firearm licensing scheme even though he had never applied for a firearm license.
3. Whether Garcia's challenge to the good-moral-character provision of Penal Law § 400.00(1)(b) was preserved for appellate review and, alternatively, whether the provision was unconstitutional on the merits.
4. Whether Garcia's claim that counsel was ineffective for failing to challenge the good-moral-character provision was reviewable on direct appeal and, alternatively, whether counsel was ineffective on the existing record.

HOLDINGS

1. Garcia's waiver of the right to appeal did not preclude appellate review of his Second Amendment challenge.
2. Garcia had standing to challenge the constitutionality of New York's firearm licensing scheme even though he had never applied for a firearm license.
3. Garcia's challenge to the good-moral-character provision in Penal Law § 400.00(1)(b) was unpreserved because he failed to raise it below, and the court declined to review it in the interest of justice.
4. As an alternative holding, the court rejected Garcia's constitutional challenge to the good-moral-character provision on the merits.
5. Garcia's claim that counsel was ineffective for failing to challenge the good-moral-character provision was unreviewable on direct appeal because it involved matters not reflected in the record and had to be raised in a CPL 440.10 motion.
6. As an alternative holding, to the extent the record permitted review, counsel did not render ineffective assistance.

KEY QUOTATIONS

*“Defendant's waiver of his right to appeal does not preclude review of his Second Amendment claim” (*1)*

*“unreviewable on direct appeal, as it involves matters not reflected in the record, and must be raised in a CPL 440.10 motion” (*1)*

FACTUAL BACKGROUND

Garcia was convicted upon a guilty plea of criminal possession of a weapon in the fourth degree. He received an eight-month jail sentence, to run concurrently with a sentence under another indictment. On appeal, he challenged the constitutionality of New York's firearm licensing scheme, including its good-moral-character requirement, and claimed that counsel was ineffective for failing to raise that challenge.

PROCEDURAL HISTORY

The Supreme Court, Bronx County, rendered judgment on June 3, 2024, convicting Garcia upon his guilty plea and sentencing him to eight months in jail, concurrent with his sentence under Indictment No. 72417/24. Garcia appealed, challenging New York's firearm licensing scheme and asserting ineffective assistance of counsel. The Appellate Division unanimously affirmed.

DISPOSITION

affirmed

CASES CITED

- People v Johnson, — NY3d —, 2025 NY Slip Op 06528, *2 [2025]
- People v Johnson, 2025 NY Slip Op 06528, *3
- People v Jacobs, — AD3d —, 2026 NY Slip Op 00591 [1st Dept 2026]
- People v Cabrera, 41 NY3d 35, 42-51 [2023]
- People v Mazyck, 246 AD3d 520 [1st Dept 2026]
- People v Guzman, 237 AD3d 570, 571 [1st Dept 2025], lv denied 44 NY3d 993 [2025]
- People v Gray, 230 AD3d 1039, 1039 [1st Dept 2024], lv denied 42 NY3d 1035 [2024]
- People v Caban, 5 NY3d 143, 152 [2005]

OPINION

People v. Garcia 2026 NY Slip Op 02076
PER CURIAM.

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revision before publication in the Official Reports.

The People of the State of New York, Respondent,

v

Rene Garcia, Appellant.

Decided and Entered: April 07, 2026

Ind. No. 71139/23|Appeal No. 6271|Case No. 2024-04249|

Before: Webber, J.P., Kennedy, Kapnick, González, O'Neill Levy, JJ.

Jenay Nurse Guilford, Center for Appellate Litigation, New York (Frances Weil of counsel), for appellant.

Darcel D. Clark, District Attorney, Bronx (Michelle Pomerantz of counsel), for respondent.

[*1]

Judgment, Supreme Court, Bronx County (Steven J. Hornstein, J.), rendered June 3, 2024, convicting defendant, upon his plea of guilty, of criminal possession of a weapon in the fourth degree, and sentencing him to a jail term of eight months, to run concurrently with his sentence under Indictment No. 72417/24, unanimously affirmed.

Defendant's waiver of his right to appeal does not preclude review of his Second Amendment claim (*see People v Johnson*, — NY3d —, 2025 NY Slip Op 06528, *2 [2025]). Defendant also has standing to raise his challenge to the constitutionality of New York's firearm licensing scheme, notwithstanding that he never applied for a firearm license (*Johnson*, 2025 NY Slip Op 06528, *3; *see also People v Jacobs*, — AD3d —, 2026 NY Slip Op 00591 [1st Dept 2026]). However, defendant's challenge to the "good moral character" provision in Penal Law § 400.00(1)(b) is unpreserved because he failed to raise it below (*see People v Cabrera*, 41 NY3d 35, 42-51 [2023]), and we decline to review it in the interest of justice. As an alternative holding, we reject it on the merits (*see People v Mazyck*, 246 AD3d 520 [1st Dept 2026]; *People v Guzman*, 237 AD3d 570, 571 [1st Dept 2025], *lv denied* 44 NY3d 993 [2025]).

Defendant's contention that his counsel rendered ineffective assistance in failing to raise a challenge to the "good moral character" provision of New York's gun licensing scheme is "unreviewable on direct appeal, as it involves matters not reflected in the record, and must be raised in a CPL 440.10 motion" (*People v Gray*, 230 AD3d 1039, 1039 [1st Dept 2024], *lv denied* 42 NY3d 1035 [2024]; *see also Jacobs*, 2026 NY Slip Op 00591). As an alternative holding, to the extent that the record allows review, we find that counsel did not render ineffective assistance (*see People v Caban*, 5 NY3d 143, 152 [2005]).

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: April 7, 2026

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