

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

People v. Harrington

2026 NY Slip Op 01075 · No. 2022-08176; 2022-08177 · Decided February 25, 2026

SUMMARY

The New York Appellate Division, Second Department, affirmed judgments convicting Travis Harrington of aggravated sexual abuse in the second degree and bail jumping in the second degree following guilty pleas. The court held that Harrington knowingly, voluntarily, and intelligently waived his right to appeal, which barred review of his second-felony-offender adjudication and excessive-sentence claim; his facial constitutional challenge to New York's predicate felony offender statutes was unpreserved and declined in the interest of justice.

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.; Helen Voutsinas, J.; Lillian Wan, J.; Janice A. Taylor, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	February 25, 2026
DOCKET	2022-08176; 2022-08177
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from two judgments entered upon his pleas of guilty, challenging the validity of his appeal waiver, the procedure adjudicating him a second felony offender, the excessiveness of his sentences, and the facial constitutionality of New York's predicate felony offender statutes.
STANDARD OF REVIEW	The court reviewed the validity and scope of the defendant's appeal waiver under the totality of the circumstances, reviewed preservation of the constitutional challenge under CPL 470.05(2), and considered whether to reach the unpreserved issue in the exercise of interest-of-justice jurisdiction.
PRECEDENTIAL VALUE	published

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the defendant's waiver of the right to appeal was knowing, voluntary, and intelligent.
2. Whether the valid appeal waiver barred review of the procedure used to adjudicate the defendant a second felony offender.
3. Whether the valid appeal waiver barred review of the defendant's claim that his sentences were excessive.
4. Whether the defendant's facial constitutional challenge to New York's predicate felony offender statutes was preserved and should be reached in the exercise of interest-of-justice jurisdiction.

HOLDINGS

1. The defendant's waiver of the right to appeal was valid because, under the totality of the circumstances, it was knowing, voluntary, and intelligent. The waiver was sufficiently addressed as a condition of the plea bargain before the defendant entered his guilty pleas, even though much of the discussion occurred afterward.
2. The defendant's valid waiver of the right to appeal precluded appellate review of his challenge to the procedure used to adjudicate him a second felony offender.
3. The defendant's valid waiver of the right to appeal precluded appellate review of his contention that the sentences imposed were excessive.
4. The defendant's facial constitutional challenge to New York's predicate felony offender statutes was not barred by the appeal waiver, but it was unpreserved for appellate review, and the court declined to reach it in the exercise of its interest-of-justice jurisdiction.

KEY QUOTATIONS

*“Under the totality of the circumstances, including the exemplary explanation of the right to appeal provided to the defendant and the defendant's age, experience, and background, the appeal waiver was knowing, voluntary, and intelligent” (*1)*

FACTUAL BACKGROUND

Harrington pleaded guilty under Indictment No. 5682/15 to aggravated sexual abuse in the second degree and under Indictment No. 8479/17 to bail jumping in the second degree. The plea bargain included a waiver of the

right to appeal, which was mentioned before he entered his pleas, although much of the discussion concerning the waiver occurred afterward. The appellate court relied on the explanation of the right to appeal, as well as Harrington's age, experience, and background, in determining that the waiver was knowing, voluntary, and intelligent.

PROCEDURAL HISTORY

The Supreme Court, Kings County, rendered two judgments on September 13, 2022, convicting Harrington upon his guilty pleas of aggravated sexual abuse in the second degree and bail jumping in the second degree and imposing sentences. Harrington appealed both judgments. The Appellate Division affirmed, holding that his appeal waiver was valid, that the waiver barred review of the predicate-felony-offender adjudication procedure and sentence excessiveness, and that his facial constitutional challenge was unpreserved and would not be reached in the interest of justice.

DISPOSITION

affirmed

CASES CITED

- People v. Felipe, 236 AD3d 920, 920-921
- People v. Kadriu, 236 AD3d 820, 820
- People v. Victor, 235 AD3d 783, 784
- People v. Francois, 235 AD3d 657, 657
- People v. White, 234 AD3d 884, 884-885
- People v. Sanders, 25 NY3d 337, 340
- People v. Bradshaw, 18 NY3d 257, 264
- People v. Walcott, 238 AD3d 1177
- People v. Smith, 244 AD3d 1144
- People v. Simpson, 244 AD3d 762
- People v. Haynes, 70 AD3d 718, 718-719
- People v. Lassiter, 48 AD3d 700
- People v. Backus, 43 AD3d 409, 410
- People v. Lopez, 6 NY3d 248, 256
- People v. Johnson, 2025 NY Slip Op 06528
- People v. Hernandez, 43 NY3d 591, 597
- People v. Munoz, 237 AD3d 1110, 1111

OPINION

PER CURIAM.

People v Harrington (2026 NY Slip Op 01075) People v Harrington 2026 NY Slip Op 01075
Decided on February 25, 2026 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 25, 2026
SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial
Department FRANCESCA E. CONNOLLY, J.P.

HELEN VOUTSINAS LILLIAN WAN JANICE A. TAYLOR, JJ. 2022-08176 2022-08177
[*1]The People of the State of New York, respondent, v Travis Harrington, appellant. (Ind. Nos.
5682/15, 8479/17) Patricia Pazner, New York, NY (Denise A. Corsí of counsel), for appellant. Eric
Gonzalez, District Attorney, Brooklyn, NY (Leonard Joblove, Amy Appelbaum, and Shlomit
Heering of counsel), for respondent.

DECISION & ORDER Appeals by the defendant from two judgments of the Supreme Court,
Kings County (Jill H. Konviser, J.), both rendered September 13, 2022, convicting him of
aggravated sexual abuse in the second degree under Indictment No. 5682/15 and bail jumping in
the second degree under Indictment No. 8479/17, upon his pleas of guilty, and imposing sentences.

ORDERED that the judgments are affirmed. Contrary to the defendant's contention, his waiver of
the right to appeal was valid. Although much of the discussion of the waiver of the right to appeal
took place after the defendant had admitted his guilt, the appeal waiver was mentioned as being a
condition of the plea bargain prior to the defendant's entry of his pleas of guilty and admissions of
guilt (see People v Felipe, 236 AD3d 920, 920-921; People v Kadriu, 236 AD3d 820, 820; People
v Victor, 235 AD3d 783, 784; People v Francois, 235 AD3d 657, 657; People v White, 234 AD3d
884, 884-885).

Under the totality of the circumstances, including the exemplary explanation of the right to appeal
provided to the defendant and the defendant's age, experience, and background, the appeal waiver
was knowing, voluntary, and intelligent (see People v Sanders, 25 NY3d 337, 340; People v
Bradshaw, 18 NY3d 257, 264; People v Walcott, 238 AD3d 1177; People v Victor, 235 AD3d at
784; People v White, 234 AD3d at 885).

The defendant's valid waiver of his right to appeal precludes appellate review of his challenge to
the procedure used to adjudicate him a second felony offender (see People v Smith, 244 AD3d
1144; People v Simpson, 244 AD3d 762; People v Haynes, 70 AD3d 718, 718-719; see also
People v Lassiter, 48 AD3d 700; People v Backus, 43 AD3d 409, 410), as well as his contention
that the sentences imposed were excessive (see People v Lopez, 6 NY3d 248, 256).

To the extent the defendant contends that New York's predicate felony offender statutes are facially
unconstitutional, that contention is not precluded by the appeal waiver (see People v Johnson,
____ NY3d _____, 2025 NY Slip Op 06528; People v Smith, 244 AD3d 1144).

However, that contention is unpreserved for appellate review (see CPL 470.05[2]; People v Hernandez, 43 NY3d 591, 597; People v Munoz, 237 AD3d 1110, 1111), and we decline to reach [*2]it in the exercise of our interest of justice jurisdiction (see People v Munoz, 237 AD3d at 1111). CONNOLLY, J.P., VOUTSINAS, WAN and TAYLOR, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court

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