

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

People v. Colombe

2026 NY Slip Op 00285 · No. CR-22-2012 · Decided January 22, 2026

SUMMARY

The New York Appellate Division, Third Department affirmed Gerald Colombe's judgment of conviction for burglary in the second degree following his guilty plea and agreed-upon sentence. The court granted appellate counsel's request to withdraw after finding no nonfrivolous issues, including based on the record and defendant's pro se submissions.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Department
WRITING FOR THE COURT	Clark, J.P.; Aarons, J.; Reynolds Fitzgerald, J.; Fisher, J.; Mackey, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	January 22, 2026
DOCKET	CR-22-2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a County Court judgment convicting him, upon his guilty plea, of burglary in the second degree. Appellate counsel moved to be relieved on the ground that no nonfrivolous issues existed.
STANDARD OF REVIEW	The court independently reviewed the record, appellate counsel's brief, and defendant's pro se submissions to determine whether any nonfrivolous appellate issue existed.
PRECEDENTIAL VALUE	published
PARTIES	Gerald Colombe v. The People of the State of New York

TOPICS

- appellate procedure
- criminal procedure
- right to counsel
- plea bargaining

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether appellate counsel should be permitted to withdraw because the record, counsel's brief, and defendant's pro se submissions presented no nonfrivolous issue.
2. Whether the judgment of conviction should be affirmed.

HOLDINGS

1. After reviewing the record, appellate counsel's brief, and defendant's pro se submissions, the court agreed that no nonfrivolous issue existed and granted counsel's request to withdraw.
2. The judgment convicting defendant of burglary in the second degree was affirmed.

KEY QUOTATIONS

“Based upon our review of the record, counsel's brief and defendant's pro se submissions, we agree.”

“Accordingly, the judgment of conviction is affirmed, and counsel's request for leave to withdraw is granted”

FACTUAL BACKGROUND

Defendant was charged in a nine-count indictment and pleaded guilty to burglary in the second degree pursuant to a plea agreement. The agreement included a waiver of the right to appeal and provided for sentencing as a second felony offender. County Court imposed a seven-year prison term followed by five years of postrelease supervision.

PROCEDURAL HISTORY

Defendant pleaded guilty in satisfaction of a nine-count indictment and waived his right to appeal. County Court sentenced him as a second felony offender to seven years' imprisonment followed by five years of postrelease supervision. On appeal, assigned counsel sought leave to withdraw, and the Appellate Division affirmed the judgment and granted the application to be relieved.

DISPOSITION

affirmed

CASES CITED

- People v. Cruwys, 113 AD2d 979, 980 (3d Dept 1985), lv denied 67 NY2d 650 (1986)
- People v. Beaty, 22 NY3d 490 (2014)
- People v. Stokes, 95 NY2d 633 (2001)

OPINION

PER CURIAM.

People v Colombe (2026 NY Slip Op 00285) People v Colombe 2026 NY Slip Op 00285
Decided on January 22, 2026 Appellate Division, Third 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 and Entered:January 22, 2026 CR-22-
2012 [*1]The People of the State of New York, Respondent, v Gerald Colombe, Appellant.

Calendar Date:January 2, 2026 Before:Clark, J.P., Aarons, Reynolds Fitzgerald, Fisher and
Mackey, JJ. Lisa A. Burgess, Indian Lake, for appellant, and appellant pro se. J. Anthony Jordan,
District Attorney, Fort Edward (Taylor Fitzsimmons of counsel), for respondent. Appeal from a
judgment of the County Court of Washington County (Kelly McKeighan, J.), rendered September
23, 2022, convicting defendant upon his plea of guilty of the crime of burglary in the second
degree.

In satisfaction of a nine-count indictment, defendant pleaded guilty to burglary in the second
degree and agreed to waive his right to appeal. In accordance with the terms of the plea agreement,
County Court sentenced defendant, as a second felony offender, to a prison term of seven years, to
be followed by five years of postrelease supervision. Defendant appeals.

Appellate counsel seeks to be relieved of her assignment of representing defendant upon the
ground that there are no nonfrivolous issues to be raised on appeal. Based upon our review of the
record, counsel's brief and defendant's pro se submissions, we agree.

Accordingly, the judgment of conviction is affirmed, and counsel's request for leave to withdraw is
granted (see People v Cruwys, 113 AD2d 979, 980 [3d Dept 1985], lv denied 67 NY2d 650
[1986]; see generally People v Beaty, 22 NY3d 490 [2014]; People v Stokes, 95 NY2d 633
[2001]). Clark, J.P., Aarons, Reynolds Fitzgerald, Fisher and Mackey, JJ., concur. ORDERED that
the judgment is affirmed, and application to be relieved of assignment granted.