

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

People v. Peterson

2026 NY Slip Op 00410 · No. CR-24-0417 · Decided January 29, 2026

SUMMARY

The Appellate Division, Third Department affirmed a Greene County judgment convicting John G. Peterson upon his guilty plea to aggravated vehicular homicide and driving while ability impaired by the combined influence of drugs or alcohol and drugs. The court held that Peterson's appeal waiver was invalid because it did not ensure his understanding that certain appellate rights survived, but concluded that the negotiated sentence of 7 to 21 years was not unduly harsh or severe.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Department
WRITING FOR THE COURT	Garry, P.J.; Pritzker, J.; Ceresia, J.; Fisher, J.; Corcoran, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	January 29, 2026
DOCKET	CR-24-0417
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Greene County Court entered after his guilty plea and sentencing for aggravated vehicular homicide and driving while ability impaired by the combined influence of drugs or alcohol and any drug or drugs.
STANDARD OF REVIEW	The court reviewed defendant's challenge to the severity of the sentence and considered whether to modify the sentence as a matter of discretion in the interest of justice under CPL 470.15 (3) (c) and (6) (b).
PRECEDENTIAL VALUE	published
PARTIES	John G. Peterson v. The People of the State of New York

TOPICS

- criminal procedure
- appellate procedure
- sentencing
- plea bargaining
- preservation of error

PRACTICE AREAS

criminal law

criminal procedure

appellate practice

sentencing

QUESTIONS PRESENTED

1. Whether defendant's waiver of the right to appeal was valid and precluded appellate review of his sentence.
2. Whether defendant's negotiated sentence of 7 to 21 years was unduly harsh or severe and should be modified in the interest of justice.

HOLDINGS

1. The waiver of defendant's right to appeal was invalid because the plea colloquy and written waiver did not ensure that defendant understood that some appellate rights survive an appeal waiver; therefore, the waiver did not preclude review of his challenge to the severity of the sentence.
2. The negotiated sentence of 7 to 21 years was not unduly harsh or severe, and the court declined to modify it in the interest of justice.

KEY QUOTATIONS

“failed to ensure that defendant understood that some appellate rights survive the appeal waiver”

FACTUAL BACKGROUND

Defendant drove while intoxicated by alcohol and drugs, crossed into the oncoming lane, and struck another vehicle, killing its driver. He had a prior conviction for driving while intoxicated. Defendant pleaded guilty to aggravated vehicular homicide and driving while ability impaired by the combined influence of drugs or alcohol and any drug or drugs.

PROCEDURAL HISTORY

Defendant was charged in a five-count indictment arising from a fatal motor vehicle accident. He pleaded guilty to two offenses under an agreement providing for an aggregate prison sentence between 5 to 15 and 7 to 21 years and requiring an appeal waiver. County Court imposed an aggregate sentence of 7 to 21 years, and defendant appealed, challenging the severity of the sentence. The Appellate Division held the appeal waiver invalid but affirmed the judgment because the negotiated sentence was not unduly harsh or severe.

DISPOSITION

affirmed

CASES CITED

- People v. Clark, 209 AD3d 1063, 1064 [3d Dept 2022], lv denied 39 NY3d 1140 [2023]
- People v. Thomas, 34 NY3d 545, 565-566 [2019]
- People v. Marsh, 221 AD3d 1063, 1064 [3d Dept 2023]

- People v. Gouge, 239 AD3d 1143, 1144 [3d Dept 2025]
- People v. Loadholt, 234 AD3d 1188, 1189 [3d Dept 2025]
- People v. Collins, 226 AD3d 1257, 1258 [3d Dept 2024]
- People v. Ferguson, 193 AD3d 1253, 1259 [3d Dept 2021], lv denied 37 NY3d 964 [2021]

OPINION

People v. Peterson 2026 NY Slip Op 00410

PER CURIAM.

People v Peterson (2026 NY Slip Op 00410) People v Peterson 2026 NY Slip Op 00410 Decided on January 29, 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 29, 2026 CR-24-0417 [*1]The People of the State of New York, Respondent, v John G. Peterson, Appellant. Calendar Date:January 2, 2026 Before:Garry, P.J., Pritzker, Ceresia, Fisher and Corcoran, JJ. David E. Woodin, Catskill, for appellant. Joseph Stanzone, District Attorney, Catskill (Krista Kline of counsel), for respondent. Appeal from a judgment of the County Court of Greene County (Terry Wilhelm, J.), rendered October 12, 2023, convicting defendant upon his plea of guilty of the crimes of aggravated vehicular homicide and driving while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs. Defendant was charged in a five-count indictment with various crimes stemming from a motor vehicle accident in which he drove his car while intoxicated and crossed into the oncoming lane, striking a vehicle headed in the opposite direction and killing its driver. In satisfaction of the indictment, defendant pleaded guilty to aggravated vehicular homicide and driving while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs, with the understanding that he would be sentenced to an aggregate prison sentence of no less than 5 to 15 years and no more than 7 to 21 years. The plea agreement also required defendant to waive his right to appeal. County Court thereafter sentenced defendant to 7 to 21 years in prison on the aggravated vehicular homicide conviction, and to a lesser concurrent sentence on the other conviction. Defendant appeals. We affirm. Initially, the People concede, and our review of the record confirms, that defendant's waiver of the right to appeal is invalid as the plea colloquy and the written appeal waiver "failed to ensure that defendant understood that some appellate rights survive the appeal waiver" (People v Clark , 209 AD3d 1063, 1064 [3d Dept 2022] [internal quotation marks, brackets and citations omitted], lv denied 39 NY3d 1140 [2023]; see People v Thomas , 34 NY3d 545 , 565-566 [2019]; People v Marsh , 221 AD3d 1063, 1064 [3d Dept 2023]). Accordingly, defendant's challenge to the severity of his sentence is not precluded (see People v Gouge , 239 AD3d 1143 , 1144 [3d Dept 2025]; People v Loadholt , 234 AD3d 1188 , 1189 [3d Dept 2025]). That said, despite a prior conviction for driving while intoxicated, defendant again chose to operate a vehicle after consuming alcohol and drugs, resulting in the death of a motorist. While we have considered the mitigating circumstances

presented by defendant, we are not persuaded that the negotiated sentence imposed is unduly harsh or severe and decline his request to modify the sentence as a matter of discretion in the interest of justice (see CPL 470.15 [3] [c]; [6] [b]; *People v Collins* , 226 AD3d 1257 , 1258 [3d Dept 2024]; *People v Ferguson* , 193 AD3d 1253, 1259 [3d Dept 2021], lv denied 37 NY3d 964 [2021]). Garry, P.J., Pritzker, Ceresia, Fisher and Corcoran, JJ., concur. ORDERED that the judgment is affirmed.