

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

The People of the State of New York v. Jorge L. Andujar

2026 NY Slip Op 00208 · No. Ind No. 73760/23; Appeal No. 5632; Case No. 2024-05366 · Decided January 15, 2026

SUMMARY

The Appellate Division, First Department, modified the judgment convicting Jorge L. Andujar of criminal possession of a weapon in the third degree by granting his application for a certificate of relief from disabilities, and otherwise affirmed. The court upheld the probation condition concerning injurious or vicious habits, unlawful or disreputable places, and disreputable associations, rejecting or declining to review the defendant's related challenges.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Kern, J.P.; Scarpulla, J.; Kapnick, J.; Shulman, J.; Hagler, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	January 15, 2026
DOCKET	Ind No. 73760/23; Appeal No. 5632; Case No. 2024-05366
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Supreme Court, Bronx County, entered after his guilty plea and imposing five years of probation. The Appellate Division unanimously modified the judgment in the interest of justice to grant a certificate of relief from disabilities and otherwise affirmed.
STANDARD OF REVIEW	The court reviewed the preserved and unpreserved claims under the applicable preservation rules, considered the constitutional challenge alternatively on the merits, and exercised discretionary interest-of-justice review concerning the certificate of relief from disabilities.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Jorge L. Andujar, Defendant-Appellant v. The People of the State of New York, Respondent

TOPICS

probation criminal procedure due process appellate procedure preservation of error

PRACTICE AREAS

criminal law criminal procedure constitutional law probation appellate procedure

QUESTIONS PRESENTED

1. Whether defendant's valid waiver of the right to appeal foreclosed review of his excessive-sentence claim.
2. Whether the probation condition prohibiting injurious or vicious habits, frequenting unlawful or disreputable places, and consorting with disreputable people was reasonably necessary and sufficiently definite.
3. Whether defendant's facial constitutional challenge to Penal Law §§ 65.10(2)(a) and (b) was preserved or waived and, alternatively, whether the challenge had merit under the First, Fifth, and Fourteenth Amendments.
4. Whether the Appellate Division should grant defendant a certificate of relief from disabilities in the interest of justice.

HOLDINGS

1. Defendant's valid waiver of the right to appeal foreclosed review of his excessive-sentence claim; in any event, there was no basis for reducing the sentence.
2. The challenge to the probation condition survived the appeal waiver and did not require preservation, but the condition was properly imposed because it was reasonably necessary to ensure that defendant would lead a law-abiding life or to assist him in doing so.
3. The constitutional challenge was unpreserved, and the court declined to review it in the interest of justice. Alternatively, the challenge was unavailing because the probation condition provided fair notice to a person of ordinary intelligence.
4. The court granted defendant's application for a certificate of relief from disabilities as a matter of discretion in the interest of justice.

KEY QUOTATIONS

"Avoid injurious or vicious habits; refrain from frequenting unlawful or disreputable places; and [to] not consort with disreputable people" (at *1)

"reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so" (at *1)

"The probation condition provides fair notice to 'a person of ordinary intelligence'" (at *1)

FACTUAL BACKGROUND

Defendant pleaded guilty to criminal possession of a weapon in the third degree after possessing an assault weapon. The record reflected a history of mental health issues and aggressive conduct. The challenged probation condition prohibited injurious or vicious habits, frequenting unlawful or disreputable places, and consorting with disreputable people. Defendant had worked for more than 24 years at a senior center, and the court found that a certificate of relief from disabilities would help ensure his continued employment there.

PROCEDURAL HISTORY

The Supreme Court, Bronx County, rendered judgment on July 31, 2024, convicting defendant upon his guilty plea of criminal possession of a weapon in the third degree and sentencing him to five years of probation. On appeal, defendant challenged the sentence, a probation condition, and the constitutionality of Penal Law §§ 65.10(2)(a) and (b), and sought a certificate of relief from disabilities. The Appellate Division rejected or declined to review the challenges and granted the certificate as a matter of discretion in the interest of justice.

DISPOSITION

affirmed

CASES CITED

- People v. Thomas, 34 NY3d 545, 559 (2019), cert. denied, 589 U.S. —, 140 S. Ct. 2634 (2020)
- People v. Nunez, 220 AD3d 597, 597 (1st Dept. 2023), lv. denied, 41 NY3d 1004 (2024)
- People v. Lowndes, 239 AD3d 574, 575 (1st Dept. 2025), lv. denied, 44 NY3d 1012 (2025)
- People v. Alvarez, 233 AD3d 619, 620 (1st Dept. 2024), lv. denied, 43 NY3d 961 (2025)
- People v. Holguin, 243 AD3d 419, 419 (1st Dept. 2025)
- People v. Rivera, 242 AD3d 421 (1st Dept. 2025)
- People v. Johnson, NY Slip Op 06528, *2-4 (2025)
- People v. Cabrera, 41 NY3d 35, 42-51 (2023)
- People v. Carasquillo, 242 AD3d 424 (1st Dept. 2025)
- People v. Stuart, 100 NY2d 412, 420 (2003)
- People v. Thompson, 189 AD3d 1969, 1969-1970 (3d Dept. 2020)
- People v. Fofana, 236 AD3d 607, 608 (1st Dept. 2025), lv. denied, 43 NY3d 1008 (2025)