

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

People v. Bessette

2026 NY Slip Op 01097 · No. CR-23-0297 · Decided February 26, 2026

SUMMARY

The Appellate Division, Third Department affirmed Thomas Bessette's judgment of conviction for course of sexual conduct against a child in the second degree. The court rejected challenges to the weight of the evidence, limitations on cross-examination, the handling of a jury note, alleged improper bolstering, and ineffective assistance of counsel. The court held that the jury's verdict was supported by the evidence and that the asserted errors did not warrant reversal.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	McShan, J.; Garry, P.J.; Ceresia, J.; Fisher, J.; Mackey, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	February 26, 2026
DOCKET	CR-23-0297
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of Albany County Court rendered after a jury convicted him of course of sexual conduct against a child in the second degree.
STANDARD OF REVIEW	The court conducted a neutral weight-of-the-evidence review, deferring to the jury's credibility determinations; reviewed limits on cross-examination for abuse of discretion; reviewed preservation under CPL 470.05(2); and considered ineffective-assistance claims under the competent-representation standard.
PRECEDENTIAL VALUE	Published opinion of the New York Appellate Division, Third Department.
PARTIES	Thomas Bessette v. The People of the State of New York

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QUESTIONS PRESENTED

1. Whether the conviction was against the weight of the evidence.
2. Whether County Court abused its discretion by limiting defendant's cross-examination of the investigating officer and the victim's mother.
3. Whether defendant preserved his claim that County Court improperly failed to respond to a jury note requesting rereading of the reasonable-doubt instruction and the victim's testimony.
4. Whether defense counsel was ineffective for failing to object to allegedly improper bolstering testimony by the investigating officer.

HOLDINGS

1. The verdict convicting defendant of course of sexual conduct against a child in the second degree was not against the weight of the evidence.
2. County Court properly limited defendant's cross-examination of the investigating officer and the victim's mother, and did not abuse its discretion.
3. Defendant's claim that the court should have suspended deliberations pending a response to the jury note was unpreserved because he did not make a specific objection that would have permitted County Court to cure the alleged error in real time.
4. Defendant was not denied effective assistance of counsel.

KEY QUOTATIONS

*“when conducting a weight of the evidence review, this Court must view the evidence in a neutral light and determine first whether a different verdict would have been unreasonable and, if not, weigh the relative probative force of conflicting testimony and the relative strength of conflicting inferences that may be drawn from the testimony to determine if the verdict is supported by the weight of the evidence” (*1)*

*“the trial court has broad discretion to limit the scope of cross-examination when the questions are irrelevant or only marginally relevant, concern collateral issues, or pose a danger of misleading the jury” (*3)*

*“In order to properly preserve an argument, a defendant must make a specific objection that would permit the court to cure the alleged error in real time” (*4)*

FACTUAL BACKGROUND

Defendant and the victim lived in a crowded three-bedroom Albany County home with numerous adults and minors. The victim testified that, during periods when defendant supervised the children and assigned the other minors chores, he called her to his bedroom and engaged in multiple acts of sexual conduct over approximately

15 months. Defendant denied the allegations and argued that the crowded home, lack of a functioning door lock, and presence of other children made the conduct impossible without discovery.

PROCEDURAL HISTORY

Defendant was indicted for predatory sexual assault against a child. After reviewing the grand jury minutes, County Court reduced the charge to the lesser included offense of course of sexual conduct against a child in the second degree. A jury convicted defendant, and County Court sentenced him to seven years in prison followed by ten years of postrelease supervision. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Gerhard, 244 AD3d 1313, 1314 (3d Dept 2025)
- People v. Morey, 231 AD3d 1363, 1364 (3d Dept 2024), lv denied, 43 NY3d 931 (2025)
- People v. Alvarez, 238 AD3d 1266, 1269 (3d Dept 2025), lv denied, 44 NY3d 981 (2025)
- People v. Baez, 232 AD3d 1044, 1045 (3d Dept 2024)
- People v. Daley, 9 AD3d 601, 602 (3d Dept 2004)
- People v. Smith, 27 NY3d 652, 661 (2016)
- People v. Doane, 212 AD3d 875, 882-883 (3d Dept 2023), lv denied, 39 NY3d 1154 (2023)
- People v. Green, 208 AD3d 1539, 1544 (3d Dept 2022)
- People v. Rouse, 34 NY3d 269, 276 (2019)
- People v. Walker, 83 NY2d 455, 461 (1994)
- People v. Gertz, 204 AD3d 1166, 1169-1170 (3d Dept 2022), lv denied, 38 NY3d 1070 (2022)
- People v. McCray, 102 AD3d 1000, 1007-1008 (3d Dept 2013), affd, 23 NY3d 193 (2014)
- People v. Love, 307 AD2d 528, 532 (3d Dept 2003), lv denied, 100 NY2d 643 (2003)
- People v. Francisco, 44 AD3d 870, 870 (2d Dept 2007), lv denied, 9 NY3d 1033 (2008)
- People v. McGlothlin, 6 AD3d 462, 463 (2d Dept 2004), lv denied, 3 NY3d 644 (2004)
- People v. Erfurt, 234 AD3d 1120, 1124 (3d Dept 2025), lv denied, 43 NY3d 1008 (2025)
- People v. Graham, 215 AD3d 998, 1007 (3d Dept 2023), lv denied, 40 NY3d 928 (2023)
- People v. Gannon, 174 AD3d 1054, 1061 (3d Dept 2019), lv denied, 34 NY3d 980 (2019)
- People v. Fleming, 70 NY2d 947, 948 (1988)
- People v. Keschner, 25 NY3d 704, 721-722 (2015)
- People v. Bonaparte, 196 AD3d 866, 869 (3d Dept 2021), lv denied, 37 NY3d 1025 (2021)
- People v. Mack, 27 NY3d 534, 543 (2016)
- People v. Agosto, 73 NY2d 963, 967 (1989)
- People v. Gross, 26 NY3d 689, 695 (2016)

- People v. Ludwig, 24 NY3d 221, 231 (2014)
- People v. Pabon, 28 NY3d 147, 157 (2016)
- People v. Saunders, 220 AD3d 812, 813 (2d Dept 2023), lv denied, 40 NY3d 1041 (2023)
- People v. Lall, 223 AD3d 1098, 1110 (3d Dept 2024), lv denied, 41 NY3d 984 (2024)
- People v. Njoku, 218 AD3d 1047, 1052 (3d Dept 2023), lv denied, 40 NY3d 1093 (2024)
- People v. Cook, 206 AD3d 1236, 1241 (3d Dept 2022)
- People v. Mehmood, 112 AD3d 850, 852 (2d Dept 2013)
- People v. Englert, 130 AD3d 1532, 1533-1534 (4th Dept 2015), lv denied, 26 NY3d 967, 1144 (2015)
- People v. Williams, 234 AD3d 1180, 1184 (3d Dept 2025), lv denied, 43 NY3d 966 (2025)
- People v. Lopez, 226 AD3d 1165, 1166-1167 (3d Dept 2024), lv denied, 42 NY3d 905 (2024)
- People v. Wilkins, 216 AD3d 1359, 1364-1365 (3d Dept 2023), lv denied, 40 NY3d 1000 (2023)
- People v. Barber, 13 AD3d 898, 902 (3d Dept 2004), lv denied, 4 NY3d 796 (2005)

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