

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

People v. Weir

Weir, 2025 NY Slip Op 06468 (Supreme Court of the State of New York Appellate Division Fourth Judicial Department 2025) · No. 823 KA 24-01195 · Decided November 21, 2025

SUMMARY

The New York Appellate Division, Fourth Department, unanimously affirmed a judgment convicting Eric J. Weir, upon his guilty plea, of criminal sexual act in the first degree. The court held that defendant's valid waiver of the right to appeal, which was included in the plea agreement and properly reviewed during the plea colloquy, foreclosed his challenge to the severity of his sentence.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Lindley, J.P.; Curran, J.; Bannister, J.; Ogden, J.; DelConte, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Fourth Department
DECIDED	November 21, 2025
DOCKET	823 KA 24-01195
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Onondaga County Court entered after his guilty plea to criminal sexual act in the first degree, challenging the enforceability of his waiver of the right to appeal and seeking review of the severity of his sentence.
PRECEDENTIAL VALUE	published
PARTIES	Eric J. Weir, defendant-appellant v. The People of the State of New York, respondent

TOPICS

- plea bargaining appellate procedure sentencing criminal procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether defendant's waiver of the right to appeal was unenforceable because the County Court allegedly added it sua sponte as a condition of the plea.
2. Whether the waiver of the right to appeal precluded appellate review of defendant's challenge to the severity of his sentence.

HOLDINGS

1. The waiver of the right to appeal was valid and enforceable because the record showed that defendant and defense counsel agreed that the plea agreement included the waiver, and there was no indication that the court added it sua sponte.
2. The valid waiver of the right to appeal foreclosed defendant's challenge to the severity of his sentence.

KEY QUOTATIONS

"We therefore conclude that the valid waiver forecloses defendant's challenge to the severity of the sentence"
([*1])

FACTUAL BACKGROUND

Defendant pleaded guilty to criminal sexual act in the first degree under Penal Law former § 130.50(3). Immediately before entering the plea, defense counsel and defendant stated on the record that the plea agreement's proposed disposition included a waiver of the right to appeal. During the plea colloquy, the County Court used the appropriate model colloquy concerning the waiver.

PROCEDURAL HISTORY

Onondaga County Court entered judgment on July 2, 2024, convicting defendant upon his guilty plea of criminal sexual act in the first degree. The Appellate Division held that defendant validly waived his right to appeal as part of the plea agreement and unanimously affirmed the judgment.

DISPOSITION

affirmed

CASES CITED

- People v. Sutton, 184 A.D.3d 236, 243-245 (2d Dep't 2020), leave to appeal denied, 35 N.Y.3d 1070 (2020)
- People v. Coon, 240 A.D.3d 1427, 1427 (4th Dep't 2025), leave to appeal denied, 44 N.Y.3d 981 (2025)
- People v. Thomas, 34 N.Y.3d 545, 567 (2019), cert. denied, 140 S. Ct. 2634 (2020)
- People v. Lopez, 6 N.Y.3d 248, 255-256 (2006)

OPINION

PER CURIAM.

People v Weir (2025 NY Slip Op 06468) People v Weir 2025 NY Slip Op 06468 Decided on November 21, 2025 Appellate Division, Fourth 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 November 21, 2025 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Fourth Judicial Department PRESENT: LINDLEY, J.P., CURRAN, BANNISTER, OGDEN, AND DELCONTE, JJ. 823 KA 24-01195 [*1]THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, v ERIC J. WEIR, DEFENDANT-APPELLANT.

CAMBARERI & BRENNECK, SYRACUSE (MELISSA K. SWARTZ OF COUNSEL), FOR DEFENDANT-APPELLANT. WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (BRADLEY W. OASTLER OF COUNSEL), FOR RESPONDENT. Appeal from a judgment of the Onondaga County Court (Melinda H. McGunnigle, J.), rendered July 2, 2024.

The judgment convicted defendant, upon a plea of guilty, of criminal sexual act in the first degree. It is hereby ORDERED that the judgment so appealed from is unanimously affirmed. Memorandum: On appeal from a judgment convicting him upon his guilty plea of criminal sexual act in the first degree (Penal Law former § 130.50 [3]), defendant contends that his waiver of the right to appeal should not be enforced because County Court sua sponte added the waiver as a condition of the plea (see People v Sutton, 184 AD3d 236, 243-245 [2d Dept 2020], lv denied 35 NY3d 1070 [2020]).

He thus contends that the waiver of the right to appeal does not preclude our review of his challenge to the severity of his sentence. We reject that contention. During proceedings immediately before defendant entered his guilty plea, both defense counsel and defendant stated on the record that they agreed that the plea agreement provided that the "proposed disposition" of the case included a waiver of the right to appeal.

There is no indication in the record that the waiver of the right to appeal was added, sua sponte, by the court, which during the plea colloquy "used the appropriate model colloquy with respect to that waiver of the right to appeal" (People v Coon, 240 AD3d 1427, 1427 [4th Dept 2025], lv denied 44 NY3d 981 [2025]; see generally People v Thomas, 34 NY3d 545, 567 [2019], cert denied — US &mdash, 140 S Ct 2634 [2020]).

We therefore conclude that the valid waiver forecloses defendant's challenge to the severity of the sentence (see People v Lopez, 6 NY3d 248, 255-256 [2006]; Coon, 240 AD3d at 1427). Entered: November 21, 2025 Ann Dillon Flynn Clerk of the Court

