

SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION

State of New Jersey v. Thomas J. Fox

State v. Fox · No. A-0045-24 · Decided August 3, 2026

SUMMARY

The New Jersey Appellate Division held that a trial judge improperly required jury unanimity before allowing playback of trial testimony during deliberations. Applying plain-error review, the court concluded that the instruction had the clear capacity to produce an unjust result and vacated the defendant’s convictions and sentence, remanding for a new trial. The court also outlined procedures trial judges should follow when responding to jury questions.

CASE DETAILS

COURT	Superior Court of New Jersey, Appellate Division
WRITING FOR THE COURT	Jacobs, J.A.D.; Gummer, J.A.D.; Paganelli, J.A.D.
JURISDICTION	Superior Court of New Jersey, Appellate Division
DECIDED	August 3, 2026
DOCKET	A-0045-24
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed his convictions for two fourth-degree offenses involving operation of a motor vehicle during a period of license suspension, related traffic convictions, and sentence. The Appellate Division addressed the claim that the trial judge improperly required jury unanimity before arranging playback of testimony and vacated the convictions and sentence.
STANDARD OF REVIEW	Plain-error review under Rule 2:10-2 because defendant did not object to the jury instruction at trial. An unobjected-to charge is reviewed for legal impropriety that prejudicially affected substantial rights and had a clear capacity to produce an unjust result.
PRECEDENTIAL VALUE	Published and approved for publication as redacted; precedential under New Jersey law.
PARTIES	Thomas J. Fox v. State of New Jersey

TOPICS

jury instructions

criminal procedure

appellate procedure

preservation of error

standard of review

PRACTICE AREAS

criminal procedure

appellate procedure

jury practice

QUESTIONS PRESENTED

1. Whether the trial judge committed plain error by requiring jury unanimity before arranging playback of requested trial testimony.
2. Whether the evidence sufficiently proved that defendant knew his license was suspended.
3. Whether admission of prior motor-vehicle violations through defendant's driver's abstract required a new trial.
4. Whether the lesser traffic violations should merge into the greater fourth-degree convictions for sentencing purposes.

HOLDINGS

1. A trial judge may not impose juror unanimity as a condition for narrowing or pursuing a jury request for playback of testimony. Playback requests ordinarily should be granted absent an unusual circumstance, and the judge's unanimity requirement here was an improper exercise of discretion.
2. The unanimity instruction was plain error because it had the clear capacity to produce an unjust result and prejudicially affected defendant's substantial rights; the convictions and sentence therefore had to be vacated.
3. When a jury submits a question, the trial judge should convene counsel, read the question into the record, state the proposed response outside the jury's presence, allow counsel to state their positions and objections on the record, and then provide the response.

KEY QUOTATIONS

"Neither Miller nor Wolf suggests a trial judge has the discretion to impose unanimity as a condition to narrow the scope of playback." (10)

"This procedure ensures counsel has a meaningful opportunity to freely express their position without concern that disagreement with the court's proposed response must be voiced either in the presence of the jury or at a sidebar whose purpose is made evident when, as occurred here, in the jury's presence, the judge asks, 'Counsel, anything for the record?'" (13)

FACTUAL BACKGROUND

On February 14, 2018, Officer David LaSassa stopped Fox's pickup truck and learned that Fox did not have a driver's license; the officer later confirmed that Fox's license was suspended. The State presented testimony from LaSassa and MVC analyst Brian Beke, along with a redacted driver's abstract showing prior suspensions and convictions. During deliberations, the jury requested trial transcripts, and the judge told jurors they had to

unanimously identify the testimony portions they wanted replayed; the jury instead returned guilty verdicts forty-five minutes later.

PROCEDURAL HISTORY

An Atlantic County grand jury indicted Fox on two fourth-degree charges under N.J.S.A. 2C:40-26(a) and (b). After a jury convicted him on both charges and the trial judge adjudicated the traffic violations, the judge denied his motion for a judgment of acquittal and imposed an aggregate fifteen-month prison term with a 180-day parole disqualifier. The Appellate Division held that the unanimity requirement imposed on the jury's playback request constituted plain error and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate defendant's convictions and sentence and remand for a new trial and further proceedings consistent with the opinion. The court did not retain jurisdiction.

CASES CITED

- State v. Singleton, 211 N.J. 157, 182-83 (2012)
- State v. Macon, 57 N.J. 325, 333-34 (1971)
- State v. Chapland, 187 N.J. 275, 289 (2006)
- State v. Cotto, 471 N.J. Super. 489, 545 (App. Div. 2022)
- State v. Nero, 195 N.J. 397, 407 (2008)
- State v. Miller, 205 N.J. 109, 119-20 (2011)
- State v. Wolf, 44 N.J. 176, 184-86 (1965)
- State v. Wilkerson, 60 N.J. 452, 460 (1972)