

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

People v. Simpson

2025 NY Slip Op 06735 (N.Y. Ct. App. 2025) · No. 2023-02175 · Decided December 3, 2025

SUMMARY

The Appellate Division, Second Department affirmed a judgment convicting Valdez Simpson of attempted assault in the first degree following his guilty plea. The court held that Simpson's valid waiver of the right to appeal precluded review of his constitutional challenge to his adjudication as a second felony offender under Erlinger v. United States.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Betsy Barros, J.P.; Barry E. Warhit, J.; Carl J. Landicino, J.; Laurence L. Love, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	December 3, 2025
DOCKET	2023-02175
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Supreme Court, Kings County, convicting him upon his guilty plea of attempted assault in the first degree and imposing sentence.
PRECEDENTIAL VALUE	published
PARTIES	Valdez Simpson v. The People of the State of New York

TOPICS

- criminal procedure
- sentencing
- appellate procedure
- constitutional law

PRACTICE AREAS

- criminal law
- criminal procedure
- appellate practice

QUESTIONS PRESENTED

1. Whether the defendant's valid waiver of the right to appeal precluded appellate review of his constitutional challenge to his adjudication as a second felony offender under *Erlinger v. United States*.

HOLDINGS

1. A valid waiver of the right to appeal precludes appellate review of a challenge to the constitutionality of the defendant's adjudication as a second felony offender when the challenge concerns the procedures used to determine predicate felony status rather than the legality of the sentence itself.

KEY QUOTATIONS

*“The defendant's valid waiver of his right to appeal precludes appellate review of his contention that his adjudication as a second felony offender was unconstitutional in light of Erlinger v United States (602 US 821), since such a challenge implicates the Supreme Court's compliance with procedures to determine the defendant's predicate felony status, rather than the legality of the sentence itself” ([*1])*

FACTUAL BACKGROUND

The defendant pleaded guilty to attempted assault in the first degree. The lower court adjudicated him a second felony offender and imposed sentence. On appeal, he argued that the second-felony-offender adjudication was unconstitutional in light of *Erlinger v. United States*.

PROCEDURAL HISTORY

The Supreme Court, Kings County, rendered judgment on February 23, 2023, after defendant pleaded guilty to attempted assault in the first degree and was sentenced. Defendant appealed, challenging the constitutionality of his adjudication as a second felony offender under *Erlinger v. United States*. The Appellate Division affirmed, holding that defendant's valid waiver of the right to appeal barred review.

DISPOSITION

affirmed

CASES CITED

- *Erlinger v. United States*, 602 U.S. 821 (2024)
- *People v. Leon*, 200 A.D.3d 717, 717 (N.Y. App. Div. 2d Dep't)
- *People v. Haynes*, 70 A.D.3d 718, 719 (N.Y. App. Div. 2d Dep't)

OPINION

People v. Simpson 2025 NY Slip Op 06735

PER CURIAM.

People v Simpson (2025 NY Slip Op 06735) People v Simpson 2025 NY Slip Op 06735 Decided on December 3, 2025 Appellate Division, Second 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 December 3, 2025

SUPREME COURT OF THE STATE OF NEW YORK

Appellate Division, Second Judicial Department BETSY BARROS, J.P.

BARRY E. WARHIT

CARL J. LANDICINO

LAURENCE L. LOVE, JJ. 2023-02175

(Ind. No. 71474/22) [*1]The People of the State of New York, respondent, v Valdez Simpson, appellant. Patricia Pazner, New York, NY (Joshua M. Levine of counsel), for appellant. Eric Gonzalez, District Attorney, Brooklyn, NY (Leonard Joblove, Julian Joiris, and Isaac Rounseville of counsel), for respondent. DECISION & ORDER Appeal by the defendant from a judgment of the Supreme Court, Kings County (Dena E. Douglas, J.), rendered February 23, 2023, convicting him of attempted assault in the first degree, upon his plea of guilty, and imposing sentence. ORDERED that the judgment is affirmed. The defendant's valid waiver of his right to appeal precludes appellate review of his contention that his adjudication as a second felony offender was unconstitutional in light of *Erlinger v United States* (602 US 821), since such a challenge implicates the Supreme Court's compliance with procedures to determine the defendant's predicate felony status, rather than the legality of the sentence itself (see *People v Leon* , 200 AD3d 717, 717 ; *People v Haynes* , 70 AD3d 718, 719). BARROS, J.P., WARHIT, LANDICINO and LOVE, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court