

**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

OPINION

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