

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

People v. Brunell

Brunell, 2026 NY Slip Op 01558 (Supreme Court of the State of New York Appellate Division Third Department 2026) · No. CR-23-0745 · Decided March 19, 2026

SUMMARY

The Appellate Division, Third Department affirmed the revocation of Michael A. Brunell's probation and the resulting sentence of 1½ to 4 years in prison. The court held that challenges to the voluntariness of his admissions and ineffective assistance claims were largely unpreserved, and alternatively found the record did not support those claims.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Department
WRITING FOR THE COURT	Clark, J.P.; Reynolds Fitzgerald, J.; Ceresia, J.; Powers, J.; Corcoran, J.
JURISDICTION	New York Supreme Court, Appellate Division, Third Department
DECIDED	March 19, 2026
DOCKET	CR-23-0745
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a County Court judgment revoking his probation and imposing a prison sentence after he waived a probation-violation hearing and admitted the violations.
STANDARD OF REVIEW	Unpreserved claims were not reviewed absent an applicable exception to the preservation requirement. The court alternatively reviewed the record and determined that the claims lacked merit.
PRECEDENTIAL VALUE	published
PARTIES	Michael A. Brunell v. The People of the State of New York

TOPICS

- probation
- ineffective assistance
- preservation of error
- criminal procedure
- appellate procedure

PRACTICE AREAS

criminal procedure

appellate procedure

probation

ineffective assistance

QUESTIONS PRESENTED

1. Whether defendant preserved his challenge to the voluntariness of his admissions to the probation violations.
2. Whether the record established that defendant's admissions to the probation violations were knowing, voluntary, and intelligent.
3. Whether defendant's ineffective-assistance claim was preserved and, on the record, required reversal.
4. Whether ineffective-assistance allegations concerning matters outside the record should be raised in a CPL article 440 motion.

HOLDINGS

1. A defendant's challenge to the voluntariness of admissions to probation violations is unpreserved when the record does not show that the defendant made an appropriate postallocation motion and the narrow exception to the preservation requirement was not triggered.
2. The defendant's admissions to the probation violations were knowing, voluntary, and intelligent because the County Court appropriately advised him of the nature and consequences of admitting the violations and he stated that he understood.
3. To the extent the ineffective-assistance claim affected the voluntariness of defendant's admissions, it was unpreserved absent an appropriate postallocation motion; alternatively, the record did not establish ineffective assistance.
4. Ineffective-assistance allegations concerning matters outside the appellate record, including off-the-record plea or disposition negotiations, are more properly raised in a motion to vacate under CPL article 440 together with record-based claims.

KEY QUOTATIONS

*“are more properly raised in a motion to vacate pursuant to CPL article 440, in conjunction with his record-based claims” ([*2])*

FACTUAL BACKGROUND

Defendant was on probation after pleading guilty to felony driving while intoxicated. The alleged violations involved using and overdosing on illicit drugs, failing to produce prescription medication during two medication counts, and being dishonest about illegal-substance use. He waived a violation hearing and admitted the violations; the County Court revoked probation and imposed a prison sentence.

PROCEDURAL HISTORY

Defendant pleaded guilty in 2021 to felony driving while intoxicated and received six months in jail followed by five years of probation. In 2022, he was charged with violating four probation conditions, waived a hearing, and

admitted the violations. Clinton County Court revoked probation and imposed a sentence of 1½ to 4 years in prison. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Hendrie, 242 AD3d 1262, 1263 (3d Dept. 2025), lv denied 44 NY3d 1028 (2025)
- People v. Curry, 210 AD3d 1203, 1204 (3d Dept. 2022)
- People v. Lopez, 71 NY2d 662, 666 (1988)
- People v. Lamica, 224 AD3d 936, 937-938 (3d Dept. 2024)
- People v. Purdie, 205 AD3d 1225, 1225 (3d Dept. 2022), lv denied 38 NY3d 1135 (2022)
- People v. Wells, 217 AD3d 1277, 1278-1279 (3d Dept. 2023)
- People v. Mastro, 174 AD3d 1232, 1233 (3d Dept. 2019)
- People v. Lewis, 69 AD3d 1232, 1234-1235 (3d Dept. 2010)

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