

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

People v. Tenemaza

2026 NY Slip Op 03323 · No. 2024-10654 · Decided May 27, 2026

SUMMARY

The Appellate Division, Second Department affirmed a judgment convicting Manuel Lema Tenemaza of aggravated driving while intoxicated with a child following his guilty plea. The court held that his challenge to amendment of the superior court information was forfeited by the plea and barred by his appeal waiver. It also held that his claim concerning inadequate advice about immigration consequences was unpreserved and declined to review it in the interest of justice.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Mark C. Dillon, J.P.; William G. Ford, J.; Lourdes M. Ventura, J.; Elena Goldberg Velazquez, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	May 27, 2026
DOCKET	2024-10654
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a County Court judgment convicting him, upon his guilty plea, of aggravated driving while intoxicated with a child and imposing sentence.
STANDARD OF REVIEW	The challenge to amendment of the SCI was forfeited by the guilty plea and barred by the uncontested appeal waiver. The claim concerning immigration advice was unpreserved for appellate review, and the court declined interest-of-justice review.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Manuel Lema Tenemaza v. The People of the State of New York

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether defendant could challenge the County Court's amendment of the superior court information to cure a nonjurisdictional defect after pleading guilty and signing an uncontested appeal waiver.
2. Whether defendant's guilty plea was involuntary because the County Court allegedly failed to properly advise him of the plea's immigration consequences.

HOLDINGS

1. Defendant's challenge to the County Court's amendment of the superior court information to cure a nonjurisdictional defect was forfeited by his guilty plea and barred by his uncontested appeal waiver.
2. Defendant's claim that his guilty plea was involuntary because the County Court failed to properly advise him of the immigration consequences was unpreserved for appellate review, and the court declined to review it in the interest of justice.

KEY QUOTATIONS

*“was informed before he pleaded guilty of the possibility that he could be deported as a result of his plea, and if he was confused about that issue, he was obligated to move to withdraw his plea on that ground before the sentencing court” (*1)*

FACTUAL BACKGROUND

Defendant waived his right to prosecution by indictment and pleaded guilty under a superior court information to aggravated driving while intoxicated with a child. The County Court amended the SCI to cure a nonjurisdictional defect, and defendant later challenged that amendment and the adequacy of the court's advisement concerning possible immigration consequences.

PROCEDURAL HISTORY

As part of a negotiated disposition, defendant waived prosecution by indictment and pleaded guilty under a superior court information. The County Court, Nassau County, granted the People's application to amend the SCI to cure a nonjurisdictional defect, rendered judgment on April 2, 2024, and imposed sentence. Defendant appealed to the Appellate Division, Second Department, which affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Garcia, 236 AD3d 576, 576-577
- People v. Ford, 231 AD3d 1241, 1242 n 1
- People v. Feltz, 223 AD3d 683, 683
- People v. McKinney, 122 AD3d 1083, 1083
- People v. Pastor, 28 NY3d 1089, 1091

OPINION

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PER CURIAM.

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People v Tenemaza

2026 NY Slip Op 03323

May 27, 2026

Appellate Division, Second Department

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The People of the State of New York, respondent,

v

Manuel Lema Tenemaza, appellant. (S.C.I. No. 70173/24)

Supreme Court of the State of New York, Appellate Division, Second Judicial Department

Decided on May 27, 2026

2024-10654

Mark C. Dillon, J.P.

William G. Ford

Lourdes M. Ventura

Elena Goldberg Velazquez, JJ.

N. Scott Banks, Hempstead, NY (Tammy Feman, Dori Cohen, and Elizabeth Walker of counsel), for appellant.

Anne T. Donnelly, District Attorney, Mineola, NY (Daniel Bresnahan and Jared A. Chester of counsel; Erica Marciante on the brief), for respondent.

DECISION & ORDER

Appeal by the defendant from a judgment of the County Court, Nassau County (David P. Sullivan, J.), rendered April 2, 2024, convicting him of aggravated driving while intoxicated with a child, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

As part of a negotiated disposition, the defendant waived his right to be prosecuted by indictment and, under a superior court information (hereinafter SCI), pleaded guilty to aggravated driving while intoxicated with a child. The County Court rendered judgment thereafter. The defendant appeals.

The defendant's contention challenging the County Court's granting of the People's application to amend the SCI to cure a nonjurisdictional defect is forfeited by his plea of guilty and barred by his uncontested appeal waiver (*see* *People v Garcia*, 236 AD3d 576, 576-577; *People v Ford*, 231 AD3d 1241, 1242 n

1; *People v Feltz*, 223 AD3d 683, 683; *People v McKinney*, 122 AD3d 1083, 1083).

The defendant's contention that his plea of guilty was involuntary because the County Court failed to properly advise him of the immigration consequences of his plea is unpreserved for appellate review. The defendant "was informed before he pleaded guilty of the possibility that he could be deported as a result of his plea, and if he was confused about that issue, he was obligated to move to withdraw his plea on that ground before the sentencing court" (*People v Pastor*, 28 NY3d 1089, 1091). We decline to review it in the exercise of our interest of justice jurisdiction.

DILLON, J.P., FORD, VENTURA and GOLDBERG VELAZQUEZ, JJ., concur.

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PER CURIAM.

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nonjurisdictional defect is forfeited by his plea of guilty and barred by his uncontested appeal waiver (see *People v Garcia* , 236 AD3d 576 , 576-577; *People v Ford* , 231 AD3d 1241 , 1242 n 1; *People v Feltz* , 223 AD3d 683, 683 ; *People v McKinney* , 122 AD3d 1083 , 1083). The defendant's contention that his plea of guilty was involuntary because the County Court failed to properly advise him of the immigration consequences of his plea is unpreserved for appellate review. The defendant "was informed before he pleaded guilty of the possibility that he could be deported as a result of his plea, and if he was confused about that issue, he was obligated to move to withdraw his plea on that ground before the sentencing court" (*People v Pastor* , 28 NY3d 1089, 1091). We decline to review it in the exercise of our interest of justice jurisdiction. DILLON, J.P., FORD, VENTURA and GOLDBERG VELAZQUEZ, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.