

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

People v. Epps

2026 NY Slip Op 03181 · No. 2024-00076 · Decided May 20, 2026

SUMMARY

The Appellate Division, Second Department, affirmed a judgment convicting Dudley Epps of course of sexual conduct against a child in the first degree following his guilty plea. The court upheld the denial, without a hearing, of his motion to withdraw the plea, concluding that the plea was knowing, voluntary, and intelligent and that his related claims were either unsupported or unpreserved. The matter was remitted for issuance of an amended sentence and commitment sheet correcting the Penal Law subdivision to Penal Law § 130.75(1)(b).

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Cheryl E. Chambers, J.P.; Linda Christopher; Helen Voutsinas; Phillip Hom
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	May 20, 2026
DOCKET	2024-00076
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the County Court, Westchester County, entered after his guilty plea and sentence. The appeal challenged the denial, without a hearing, of his motion to withdraw the plea and raised an issue concerning the plea allocution.
STANDARD OF REVIEW	The denial of a motion to withdraw a guilty plea is reviewed for abuse or improvident exercise of discretion. The nature and extent of any fact-finding inquiry, including whether to hold a hearing, rests largely within the trial court's discretion, and a hearing is required only in rare instances.
PRECEDENTIAL VALUE	Published

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QUESTIONS PRESENTED

1. Whether the County Court providently exercised its discretion by denying the defendant's motion to withdraw his guilty plea without a hearing.
2. Whether the defendant's claim concerning the plea allocution was preserved for appellate review and whether an exception to the preservation requirement applied.
3. Whether the sentence and commitment sheet should be corrected to identify Penal Law § 130.75(1)(b).

HOLDINGS

1. The County Court providently exercised its discretion in denying the defendant's motion to withdraw his guilty plea without a hearing because the record established that the plea was knowingly, voluntarily, and intelligently made, and the defendant's contrary assertions were unsubstantiated or contradicted by the record.
2. The defendant's contention concerning the plea allocution was unpreserved for appellate review because he did not move to withdraw his plea on that ground or otherwise raise the issue before the County Court. The exception to the preservation requirement did not apply.
3. The judgment was affirmed, but the matter was remitted to the County Court for issuance of an amended sentence and commitment sheet accurately reflecting that the defendant pleaded guilty to course of sexual conduct against a child in the first degree under Penal Law § 130.75(1)(b).

KEY QUOTATIONS

“The decision as to whether to permit a defendant to withdraw a previously entered plea of guilty rests within the sound discretion of the court and generally will not be disturbed absent an improvident exercise of discretion” ([*1])

“In general, such a motion must be premised upon some evidence of possible innocence or of fraud, mistake, coercion or involuntariness in the taking of the plea” ([*1])

“When a defendant moves to withdraw a guilty plea, the nature and extent of the fact-finding inquiry 'rest[s] largely in the discretion of the Judge to whom the motion is made' and a hearing will be granted only in rare instances” ([*1])

FACTUAL BACKGROUND

The defendant pleaded guilty to one count of course of sexual conduct against a child in the first degree. Before sentencing, he sought to withdraw his plea, asserting that he did not understand the plea proceeding, that counsel's statements concerning the maximum sentence after trial were coercive, and that the plea allocution was deficient. The County Court denied the motion without a hearing, and the Appellate Division found the plea knowing, voluntary, and intelligent; it also noted that the sentence and commitment sheet incorrectly identified the applicable Penal Law subdivision.

PROCEDURAL HISTORY

Epps pleaded guilty to course of sexual conduct against a child in the first degree. Before sentencing, he moved to withdraw his guilty plea; the County Court denied the motion without a hearing and imposed sentence. The Appellate Division affirmed the judgment but remitted the matter for correction of the uniform sentence and commitment sheet to identify the proper Penal Law subdivision.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

Remit to the County Court, Westchester County, for issuance of an amended uniform sentence and commitment sheet correctly stating that the defendant pleaded guilty to one count of course of sexual conduct against a child in the first degree under Penal Law § 130.75(1)(b).

CASES CITED

- People v. Kess, 244 AD3d 1243, 1243-1244
- People v. Moses, 236 AD3d 1063, 1063-1064
- People v. Brown, 14 NY3d 113, 116
- People v. Tinsley, 35 NY2d 926, 927
- People v. Dennis, 244 AD3d 997, 998
- People v. Sougou, 26 NY3d 1052, 1055
- People v. Hollman, 197 AD3d 484, 484-485
- People v. Colonna, 239 AD3d 671, 671-672
- People v. Fellows, 208 AD3d 682, 683
- People v. Santiago, 242 AD3d 773, 774
- People v. Leasure, 177 AD3d 770, 772
- People v. Prenaj, 239 AD3d 1001, 1002
- People v. Brown, 245 AD3d 955, 956
- People v. Petrangelo, 233 AD3d 1028, 1029

OPINION

PER CURIAM.

People v Epps - 2026 NY Slip Op 03181 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions People v Epps 2026 NY Slip Op 03181 May 20, 2026 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.

This decision is uncorrected and subject to revision before publication in the Official Reports. The People of the State of New York, respondent, v Dudley Epps, appellant. Supreme Court of the State of New York, Appellate Division, Second Judicial Department Decided on May 20, 2026 2024-00076, (Ind. No. 73088/22) Cheryl E. Chambers, J.P. Linda Christopher Helen Voutsinas Phillip Hom, JJ. Jason M. Bernheimer, Chappaqua, NY, for appellant.

Anthony P. Parisi, Special District Attorney, Poughkeepsie, NY (Kirsten A. Rappleyea of counsel), for respondent. [*1] DECISION & ORDER Appeal by the defendant from a judgment of the County Court, Westchester County (Susan Cacace, J., at plea; Robert J. Prisco, J., at sentence), rendered December 12, 2023, convicting him of course of sexual conduct against a child in the first degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed, and the matter is remitted to the County Court, Westchester County, for the issuance of an amended uniform sentence and commitment sheet in accordance herewith. The defendant entered a plea of guilty to course of sexual conduct against a child in the first degree. Prior to sentencing, the defendant moved to withdraw his plea of guilty.

The County Court denied the defendant's motion without a hearing and imposed sentence. The defendant appeals. "The decision as to whether to permit a defendant to withdraw a previously entered plea of guilty rests within the sound discretion of the court and generally will not be disturbed absent an improvident exercise of discretion" (People v Kess, 244 AD3d 1243, 1243 [internal quotation marks omitted]; see People v Moses, 236 AD3d 1063, 1063-1064).

"In general, such a motion must be premised upon some evidence of possible innocence or of fraud, mistake, coercion or involuntariness in the taking of the plea" (People v Moses, 236 AD3d at 1064 [alteration and internal quotation marks omitted]; see People v Kess, 244 AD3d at 1244). "When a defendant moves to withdraw a guilty plea, the nature and extent of the fact-finding inquiry 'rest[s] largely in the discretion of the Judge to whom the motion is made' and a hearing will be granted only in rare instances" (People v Brown, 14 NY3d 113, 116, quoting People v Tinsley, 35 NY2d 926, 927; see People v Dennis, 244 AD3d 997, 998).

Here, the County Court providently exercised its discretion in denying, without a hearing, the defendant's motion to withdraw his plea of guilty. Reviewing the record as a whole and the circumstances surrounding the entry of his plea (see People v Sougou, 26 NY3d 1052, 1055), we

conclude that the defendant's plea of guilty was knowingly, voluntarily, and intelligently made (see *People v Moses*, 236 AD3d at 1064; *People v Hollman*, 197 AD3d 484, 484-485).

The defendant's [*2] contentions that he did not understand the nature of the plea proceeding are unsubstantiated and contradicted by the record (see *People v Colonna*, 239 AD3d 671, 671-672). Moreover, the alleged statements by his counsel as to the maximum possible sentence exposure if he were convicted after trial did not constitute coercion (see *id.* at 672; *People v Fellows*, 208 AD3d 682, 683).

Further, the defendant's contention regarding the plea allocution is unpreserved for appellate review since the defendant failed to move to withdraw his plea on those grounds or otherwise raise the issue before the County Court (see *People v Santiago*, 242 AD3d 773, 774; *People v Leasure*, 177 AD3d 770, 772).

The exception to preservation requirement does not apply in this case because the defendant's plea allocution did not cast significant doubt on his guilt, negate an essential element of the crime, or call into question the voluntariness of the plea (see *People v Santiago*, 242 AD3d at 774; *People v Prenaj*, 239 AD3d 1001, 1002).

As the People correctly concede, the defendant's uniform sentence and commitment sheet erroneously identified the wrong subdivision of the Penal Law to which the defendant entered a plea of guilty. Accordingly, we remit the matter to the County Court, Westchester County, for the issuance of an amended sentence and commitment sheet that properly reflects that the defendant entered a plea of guilty to one count of course of sexual conduct against a child in the first degree under Penal Law § 130.75(1)(b) (see *People v Brown*, 245 AD3d 955, 956; *People v Petrangelo*, 233 AD3d 1028, 1029).

CHAMBERS, J.P., CHRISTOPHER, VOUTSINAS and HOM, 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.

PER CURIAM.

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People v Epps

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respondent,
v
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Supreme Court of the
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Decided on May 20,
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Cheryl E. Chambers, J.P.
Linda Christopher
Helen Voutsinas
Phillip Hom, JJ.
Jason M. Bernheimer, Chappaqua, NY, for
appellant.
Anthony P. Parisi, Special District Attorney, Poughkeepsie, NY (Kirsten A. Rappleyea of counsel), for respondent.
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Here, the County Court providently exercised its discretion in denying,
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Reviewing the record as a whole and the circumstances surrounding the entry of his plea (*see* *People v Sougou*, 26 NY3d 1052, 1055), we conclude that the defendant's plea of guilty was knowingly, voluntarily, and intelligently made (*see* *People v Moses*, 236 AD3d at 1064; *People v Hollman*, 197 AD3d 484, 484-485).

The defendant's [*2] contentions that he did not understand the nature of the plea proceeding are unsubstantiated and contradicted by the record (*see* *People v Colonna*, 239 AD3d 671, 671-672).

Moreover, the alleged statements by his counsel as to the maximum possible sentence exposure if he were convicted after trial did not constitute coercion (*see* *id.* at 672; *People v Fellows*, 208 AD3d 682, 683).

Further, the defendant's contention regarding the plea allocation is unpreserved for appellate review since the defendant failed to move to withdraw his plea on those grounds or otherwise raise the issue before the County Court (*see* *People v Santiago*, 242 AD3d 773, 774; *People v Leasure*, 177 AD3d 770, 772).

The exception to preservation requirement does not apply in this case because the defendant's plea allocation did not cast significant doubt on his guilt, negate an essential element of the crime, or call into question the voluntariness of the plea (*see* *People v Santiago*, 242 AD3d at 774; *People v Prenaj*, 239 AD3d 1001, 1002).

As the People correctly concede, the defendant's uniform sentence and commitment sheet erroneously identified the wrong subdivision of the Penal Law to which the defendant entered a plea of guilty.

Accordingly, we remit the matter to the County Court, Westchester County, for the issuance of an amended sentence and commitment sheet that properly reflects that the defendant entered a plea of guilty to one count of course of sexual conduct against a child in the first degree under Penal Law § 130.75(1)(b) (*see* *People v Brown*, 245 AD3d 955, 956; *People v Petrangelo*, 233 AD3d 1028, 1029).

CHAMBERS, J.P., CHRISTOPHER, VOUTSINAS and HOM, JJ., concur.

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