

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

People v. Concepcion

2026 NY Slip Op 03581 · No. 388 KA 24-00662 · Decided June 5, 2026

SUMMARY

The New York Appellate Division, Fourth Department, reversed a judgment convicting Jose Concepcion of assault in the second degree upon his guilty plea. The court held that the plea was not knowing, voluntary, and intelligent because the trial court misadvised him regarding the minimum term of incarceration and maximum period of postrelease supervision, and it vacated the plea and remitted the matter for further proceedings.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Whalen, P.J.; Bannister, J.; Montour, J.; Nowak, J.; Hannah, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
DECIDED	June 5, 2026
DOCKET	388 KA 24-00662
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed from a judgment of Wyoming County Court convicting him, upon his plea of guilty, of assault in the second degree.
STANDARD OF REVIEW	Review of the validity of a guilty plea for compliance with the requirements that the plea be knowing, voluntary, and intelligent; the judgment was reversed on the law.
PRECEDENTIAL VALUE	precedential
PARTIES	Jose Concepcion v. The People of the State of New York

TOPICS

- plea bargaining
- criminal procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the defendant's guilty plea was knowing, voluntary, and intelligent when County Court misadvised him about the minimum term of incarceration and maximum period of postrelease supervision.
2. Whether defendant's remaining appellate contention required consideration after the plea was vacated.

HOLDINGS

1. A guilty plea is not knowing, voluntary, and intelligent when the court misadvises the defendant about both the minimum term of incarceration and the maximum period of postrelease supervision to which the defendant is exposed.
2. Once the guilty plea was vacated and the judgment reversed, defendant's remaining contention was academic and did not require resolution.

KEY QUOTATIONS

“Thus, defendant did not knowingly, voluntarily, and intelligently plead guilty” ([*1])

“We therefore reverse the judgment and vacate the plea, and we remit the matter to County Court for further proceedings on the indictment.” ([*1])

FACTUAL BACKGROUND

Defendant pleaded guilty in Wyoming County Court to assault in the second degree under Penal Law § 120.05 (3). Before accepting the plea, County Court misadvised him about both the minimum term of incarceration and the maximum period of postrelease supervision to which he was exposed. The appellate court concluded that the misinformation affected the knowing, voluntary, and intelligent nature of the plea.

PROCEDURAL HISTORY

Wyoming County Court entered judgment on April 24, 2024, after defendant pleaded guilty to assault in the second degree. On appeal, defendant argued that the court misadvised him regarding the minimum term of incarceration and maximum period of postrelease supervision. The People conceded the error, and the Appellate Division reversed the judgment, vacated the plea, and remitted the matter for further proceedings on the indictment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter is remitted to Wyoming County Court for further proceedings on the indictment.

CASES CITED

- People v. Scott, 44 NY3d 302, 314-315 (2025)
- People v. Keller, 168 AD3d 1098, 1099-1100 (2d Dept 2019)

OPINION

PER CURIAM.

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This decision is uncorrected and subject to revision before publication in the Official Reports. THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, v JOSE CONCEPCION, DEFENDANT-APPELLANT. Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department Decided on June 5, 2026 388 KA 24-00662 Present: Whalen, P.J., Bannister, Montour, Nowak, And Hannah, JJ. KELIANN M. ARGY, ORCHARD PARK, FOR DEFENDANT-APPELLANT.

VINCENT A. HEMMING, DISTRICT ATTORNEY, WARSAW, FOR RESPONDENT. Appeal from a judgment of the Wyoming County Court (Melissa Lightcap Cianfrini, A.J.), rendered April 24, 2024. The judgment convicted defendant, upon his plea of guilty, of assault in the second degree. [*1] It is hereby ORDERED that the judgment so appealed from is unanimously reversed on the law, the plea is vacated, and the matter is remitted to Wyoming County Court for further proceedings on the indictment.

Memorandum: Defendant appeals from a judgment convicting him, upon his plea of guilty, of assault in the second degree (Penal Law § 120.05 [3]). As defendant contends and the People correctly concede, County Court misadvised defendant as to both the minimum term of incarceration and the maximum period of postrelease supervision to which he was exposed.

Thus, defendant did not knowingly, voluntarily, and intelligently plead guilty (see People v Scott, 44 NY3d 302, 314-315 [2025]; People v Keller, 168 AD3d 1098, 1099-1100 [2d Dept 2019]). We therefore reverse the judgment and vacate the plea, and we remit the matter to County Court for further proceedings on the indictment.

In light of our determination, defendant's remaining contention is academic. Entered: June 5, 2026 Ann Dillon Flynn 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

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