

**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

OPINION

People v. Concepcion 2026 NY Slip Op 03581

PER CURIAM.

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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

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