

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

People v. Butler

2026 NY Slip Op 03179 · No. 2023-06476, 2024-02807 · Decided May 20, 2026

SUMMARY

The Appellate Division, Second Department, affirmed judgments convicting Reliina Butler of felony driving while intoxicated and imposing consecutive probation after a probation violation. The court held that the sentences were legal under Vehicle and Traffic Law § 1192(3) and Penal Law § 60.21, and that Butler's valid waiver of appellate rights barred review of her excessive-sentence claim.

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, J.; Helen Voutsinas, J.; Phillip Hom, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	May 20, 2026
DOCKET	2023-06476, 2024-02807
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment convicting her, upon her guilty plea, of felony operating a motor vehicle while under the influence of alcohol and from an amended judgment revoking previously imposed probation after she admitted violating a probation condition.
STANDARD OF REVIEW	The court reviewed de novo the legal question whether the sentences were illegal and examined the totality of the circumstances to determine whether defendant knowingly, voluntarily, and intelligently waived her right to appeal.
PRECEDENTIAL VALUE	published
PARTIES	Reliina Butler, also known as Relina Butler v. The People of the State of New York

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QUESTIONS PRESENTED

1. Whether the sentences imposed after defendant's conviction under Vehicle and Traffic Law § 1192(3), including a consecutive period of probation, were illegal.
2. Whether defendant knowingly, voluntarily, and intelligently waived her right to appeal.
3. Whether the valid appeal waiver precluded appellate review of defendant's claim that the sentences were excessive.

HOLDINGS

1. The sentences were not illegal. When a person is convicted under Vehicle and Traffic Law § 1192(3), Penal Law § 60.21 requires the sentencing court to impose a period of probation or conditional discharge consecutive to any imprisonment, notwithstanding Penal Law § 60.01(2)(d).
2. Under the totality of the circumstances, defendant knowingly, voluntarily, and intelligently waived her right to appeal. The valid waiver precluded appellate review of her claim that the sentences were excessive.

KEY QUOTATIONS

“Where, as here, a person is convicted under Vehicle and Traffic Law § 1192(3), a sentencing court is required, pursuant to Penal Law § 60.21, to impose a period of probation or conditional discharge to run consecutively to any period of imprisonment, notwithstanding Penal Law § 60.01(2)(d)” ([*1])

“Under the totality of the circumstances, the record demonstrates that the defendant knowingly, voluntarily, and intelligently waived her right to appeal” ([*1]-[*2])

FACTUAL BACKGROUND

Defendant pleaded guilty to felony operating a motor vehicle while under the influence of alcohol in violation of Vehicle and Traffic Law § 1192(3). In a related matter, she admitted violating a condition of previously imposed probation, resulting in revocation of probation and resentencing. The sentences included a period of probation consecutive to imprisonment, and defendant had executed a written waiver of appeal after discussing it with counsel and before the plea proceedings.

PROCEDURAL HISTORY

The Orange County Court entered a judgment on August 9, 2023, convicting defendant under Superior Court Information No. 294/22 and imposing sentence. On the same date, the court entered an amended judgment under Superior Court Information No. 4/22 revoking previously imposed probation and imposing sentence on the prior felony conviction. Defendant appealed from both judgments, and the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

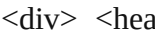
- People v. Smith, 154 AD3d 714, 714-715
- People v. Oliver, 98 AD3d 751, 751
- People v. Thomas, 34 NY3d 545, 566-567
- People v. Lopez, 6 NY3d 248, 256
- People v. Batista, 167 AD3d 69, 75-78
- People v. Torres, 244 AD3d 1256, 1257
- People v. Mejia, 246 AD3d 828, 828
- People v. Whitney, 245 AD3d 834, 834

OPINION

People v. Butler 2026 NY Slip Op 03179
PER CURIAM.

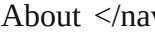
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People v Butler

2026 NY Slip Op 03179

May 20, 2026

Appellate Division, Second Department

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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

Reliina Butler, Also Known as Relina Butler, appellant. (S.C.I. Nos. 4/22, 294/22)

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

Decided on May 20, 2026

2023-06476, 2024-02807

Cheryl E. Chambers, J.P.

Linda Christopher

Helen Voutsinas

Phillip Hom, JJ.

Bonnie C. Brennan, New Windsor, NY, for appellant.

David M. Hoovler, District Attorney, Goshen, NY (Andrew R. Kass and Robert C. McIver of counsel), for respondent.

DECISION

& ORDER

Appeals by the defendant from (1) a judgment of the County Court, Orange County (Hyun Chin Kim, J.), rendered August 9, 2023, convicting her of operating a motor vehicle while under the influence of alcohol as a felony in violation of Vehicle and Traffic

Law § 1192(3) under Superior Court Information No. 294/22, upon her plea of guilty, and imposing sentence, and (2) an amended judgment of the same court, also rendered August 9, 2023, revoking a sentence of probation previously imposed by the same court (William DeProspero, J.) under Superior Court Information No. 4/22, upon a finding that she violated a condition thereof, upon her admission, and imposing sentence upon her previous conviction of operating a motor vehicle while under the influence of alcohol as a felony.

ORDERED that the judgment and the amended judgment are affirmed.

Contrary to the defendant's contention, the sentences imposed were not illegal. Where, as here, a person is convicted under Vehicle and Traffic Law § 1192(3), a sentencing court is required, pursuant to Penal Law § 60.21, to impose a period of probation or conditional discharge to run consecutively to any period of imprisonment, notwithstanding Penal Law § 60.01(2)(d) (see Vehicle and Traffic Law § 1193[1][c][iii]; Penal Law § 60.21; *People v Smith*, 154 AD3d 714, 714-715; *People v Oliver*, 98 AD3d 751, 751). Accordingly, the defendant's sentences, which included a consecutive period of probation, were legal.

Under the totality of the circumstances, the record demonstrates that the defendant knowingly, voluntarily, and intelligently waived her right to appeal (see *People v Thomas*, 34 NY3d 545; *People v Lopez*, 6 NY3d 248). "The [County] [C]ourt's colloquy followed, almost verbatim, the model colloquy for the waiver of the right to appeal drafted by the Unified Court System's Criminal Jury Instructions and Model Colloquy Committee, the use of which has been endorsed by this Court in *People v Batista* (167 AD3d 69, 76-78), and by the Court of Appeals in *People v Thomas* (34 NY3d at 566-567)" (*People v Torres*, 244 AD3d 1256, 1257 [internal quotation marks omitted]). Moreover, the appeal waiver was mentioned as being a condition of the plea agreement prior to the defendant's plea of guilty and admission of guilt, and the record reflects the defendant was made aware of the People's demand for an appeal waiver before she agreed to the plea of guilty, [*2] as she acknowledged that she had discussed the appeal waiver with her attorney and executed a written waiver of her right to appeal prior to the plea proceedings (see *People v Mejia*, 246 AD3d 828, 828; *People v Whitney*, 245 AD3d 834, 834). The defendant's valid waiver of her right to appeal precludes appellate review of her contention that the sentences imposed were excessive (see *People v Lopez*, 6 NY3d at 256; *People v Torres*, 244 AD3d at 1257; *People v Batista*, 167 AD3d at 75).

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

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PER CURIAM.

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the record reflects the defendant was made aware of the People's demand for an appeal waiver before she agreed to the plea of guilty, [*2] as she acknowledged that she had discussed the appeal waiver with her attorney and executed a written waiver of her right to appeal prior to the plea proceedings (see *People v Mejia* , 246 AD3d 828, 828; *People v Whitney* , 245 AD3d 834, 834). The defendant's valid waiver of her right to appeal precludes appellate review of her contention that the sentences imposed were excessive (see *People v Lopez* , 6 NY3d at 256; *People v Torres* , 244 AD3d at 1257; *People v Batista* , 167 AD3d at 75). 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.