

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

Matter of Guiden v. Jose-Decker

2026 NY Slip Op 00942 · No. CV-23-2238 · Decided February 19, 2026

SUMMARY

The Appellate Division, Third Department, reviewed a CPLR article 78 proceeding seeking to prohibit the retrial of a defendant after a mistrial was declared over his objection. The court held that juror misconduct and the resulting prejudice established manifest necessity for the mistrial, so double jeopardy did not bar retrial. The petition was dismissed without costs.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Mackey, J.; Garry, P.J.; Ceresia, J.; Fisher, J.; McShan, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	February 19, 2026
DOCKET	CV-23-2238
DISPOSITION	dismissed
PROCEDURAL POSTURE	CPLR article 78 proceeding, initiated in the Appellate Division under CPLR 506(b)(1), seeking a writ of prohibition to bar a retrial on the ground that retrial would violate double-jeopardy protections.
STANDARD OF REVIEW	The trial court's decision to grant a mistrial is reviewed for abuse of discretion, with substantial deference given to the trial court's assessment of juror credibility and the necessity of a mistrial. Retrial after a defendant-objected-to mistrial is barred unless manifest necessity existed or the ends of public justice otherwise would be defeated.
PRECEDENTIAL VALUE	Published and precedential New York Appellate Division decision
PARTIES	Keymarroo Guiden, petitioner v. E. Danielle Jose-Decker, as County Judge of Sullivan County, Brian P. Conaty, Sullivan County District Attorney

TOPICS

double jeopardy

criminal procedure

appellate procedure

constitutional law

preservation of error

PRACTICE AREAS

criminal procedure

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion in declaring a mistrial over petitioner's objection based on juror misconduct.
2. Whether the mistrial was supported by manifest necessity such that a retrial was not barred by the federal and state constitutional protections against double jeopardy.
3. Whether the trial court adequately considered alternatives to a mistrial, including further juror questioning, alternate jurors, and curative instructions.

HOLDINGS

1. Retrial was not barred because the trial court's mistrial determination was supported by manifest necessity.
2. Juror No. 5's repeated, willful disobedience of instructions, lack of candor during questioning, and interference with jury independence constituted gross misconduct under CPL 280.10(2).
3. The trial court adequately considered and rejected alternatives to a mistrial, including additional questioning, alternate jurors, additional admonitions, and curative instructions.

KEY QUOTATIONS

*"Once the jury has been impaneled and sworn, if a court grants a mistrial "without the consent or over the objection of a defendant, retrial is barred by double jeopardy protections unless there was manifest necessity for the mistrial or the ends of public justice would otherwise be defeated"" (*1)*

*"Whether to grant a mistrial is a matter committed to the sound discretion of the trial court, but the court must "consider alternatives to a mistrial and . . . obtain enough information so that it is clear that a mistrial is actually necessary"" (*2)*

*"Under the circumstances presented, this pattern of conduct involving interference with the jury's independence and repeated failures to follow "the most basic of jury instructions" amounts to gross misconduct" (*3)*

FACTUAL BACKGROUND

Petitioner was charged with second-degree murder arising from the 2014 death of his girlfriend. On the first day of trial, after the jury had been sworn, juror No. 5 discussed with other jurors his belief that the prosecution was politically motivated, possible plea negotiations, and the credibility of police officers. Several jurors heard or discussed the remarks, failed to disclose them fully or timely, and expressed confusion and concern about the case. After questioning the jurors, the trial court found that juror No. 5 had engaged in gross misconduct and that

the remaining jury was irreparably tainted, declared a mistrial, and rejected alternatives including further questioning, alternate jurors, and curative instructions.

PROCEDURAL HISTORY

After the jury was sworn in petitioner's murder trial, the trial court declared a mistrial on the People's motion based on juror misconduct and resulting prejudice to the People's case. The trial court denied petitioner's motion to dismiss the indictment on double-jeopardy grounds, finding manifest necessity for the mistrial. Petitioner then commenced this article 78 proceeding seeking prohibition of a retrial. The Appellate Division dismissed the petition.

DISPOSITION

dismissed

CASES CITED

- Matter of Snyder v. Farrell, 242 AD3d 1480, 1481 (3d Dept. 2025)
- Matter of Robar v. LaBuda, 84 AD3d 129, 133-143 (3d Dept. 2011)
- People v. Ellis, 182 AD3d 791, 792 (3d Dept. 2020), lv denied 35 NY3d 1026 (2020)
- Matter of Davis v. Brown, 87 NY2d 626, 630 (1996)
- People v. Ferguson, 67 NY2d 383, 388 (1986)
- Matter of Enright v. Siedlecki, 59 NY2d 195, 200-201 (1983)
- People v. Wilson, 163 AD3d 1049, 1050-1051 (3d Dept. 2018)
- Matter of Pronti v. Allen, 13 AD3d 1034, 1036 (3d Dept. 2004)
- People v. Johnson, 217 AD2d 667, 668 (2d Dept. 1995), lv denied 86 NY2d 843 (1995)
- People v. Neulander, 162 AD3d 1763, 1767 (4th Dept. 2018), affd 34 NY3d 110 (2019)
- People v. Paige, 134 AD3d 1048, 1054-1056 (2d Dept. 2015), lv denied 27 NY3d 1073 (2016)
- People v. Cruz, 210 AD3d 903, 903-904 (2d Dept. 2022), lv denied 39 NY3d 985 (2022)
- Matter of Maynard v. Wait, 246 AD2d 853, 854-855 (3d Dept. 1998)
- Arizona v. Washington, 434 U.S. 497, 511-512 (1978)
- People v. Hambrick, 96 AD3d 972, 974 (2d Dept. 2012), lv denied 19 NY3d 1102 (2012)
- Matter of Shipmon v. Moran, 225 AD3d 1173, 1176 (4th Dept. 2024)
- People v. Smith, 176 AD3d 1114, 1117 (2d Dept. 2019), lv denied 34 NY3d 1163 (2020)
- People v. Batticks, 35 NY3d 561, 568-569 (2020)