

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

People v. Anderson

People v. Anderson, 2026 NY Slip Op 04056 (N.Y. Ct. App. 2026) · No. 254 KA 25-00191 · Decided June 26, 2026

SUMMARY

The Appellate Division, Fourth Department reversed an order dismissing an indictment charging attempted murder and criminal possession of a weapon. The court held that the grand jury proceeding was not defective because the evidence did not support a justification instruction and the prosecutor's introduction of the defendant's prior conviction did not warrant dismissal.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Montour, J.P.; Ogden, J.; Greenwood, J.; Nowak, J.; Hannah, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Fourth Department
DECIDED	June 26, 2026
DOCKET	254 KA 25-00191
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The People appealed from an order granting the portion of defendant's omnibus motion seeking dismissal of the indictment.
STANDARD OF REVIEW	Whether the grand jury proceeding was so irregular that the integrity of the proceeding was impaired and prejudice to defendant may result; dismissal is an exceptional remedy warranted only upon a possibility that the alleged misconduct affected the grand jury's decision to indict.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	The People of the State of New York v. Rhodesia Anderson, defendant-respondent

TOPICS

- grand jury
- criminal procedure
- evidence
- appellate procedure
- preservation of error

PRACTICE AREAS

Criminal law

Criminal procedure

Grand jury practice

Evidence

QUESTIONS PRESENTED

1. Whether the grand jury proceeding was defective because the prosecutor did not instruct the grand jury on a justification defense.
2. Whether the introduction of defendant's prior conviction for criminal possession of a weapon in the second degree rendered the grand jury proceeding defective.
3. Whether additional grounds for dismissal raised by defendant on appeal were properly before the court when they had not been decided adversely to the People below.

HOLDINGS

1. The statute is sufficiently certain and not unconstitutionally vague.
2. The trial court properly refused the instruction.
3. The modification was proper and did not prejudice the defendant.
4. The evidence was sufficient; the jury could infer the requisite specific intent.
5. The conviction under §11162.5 is proper; §11391 is a separate offense and does not preclude liability under §11162.5.

KEY QUOTATIONS

*"A court may dismiss an indictment on the ground that a grand jury proceeding is defective where, inter alia, the proceeding is so irregular "that the integrity thereof is impaired and prejudice to the defendant may result"" ([*1])*

*"not every improper comment, elicitation of inadmissible testimony, impermissible question or mere mistake renders an indictment defective"" ([*1])*

*"If the prosecutor fails to instruct the grand jury on a defense that would eliminate a needless or unfounded prosecution, the proceeding is defective, mandating dismissal of the indictment"" ([*1])*

*"A person may not use deadly physical force upon another person unless the person "reasonably believes that such other person is using or about to use deadly physical force"" ([*1])*

FACTUAL BACKGROUND

The grand jury considered charges including attempted murder in the second degree and criminal possession of a weapon in the second degree. Surveillance video showed defendant engaged in a confrontation with a man, later entering her vehicle, driving away, aiming a gun toward the man, and firing several times, striking a bystander. The People also introduced evidence that defendant had a prior conviction for criminal possession of a weapon in the second degree.

PROCEDURAL HISTORY

Supreme Court, Erie County, granted defendant's motion to dismiss the indictment, finding the grand jury proceeding defective because the People failed to instruct the grand jury on justification and introduced evidence of defendant's prior conviction. The Appellate Division reversed, denied that portion of the omnibus motion, reinstated the indictment, and remitted for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The order is reversed on the law, the portion of defendant's omnibus motion seeking dismissal of the indictment is denied, the indictment is reinstated, and the matter is remitted to Supreme Court, Erie County, for further proceedings on the indictment.

CASES CITED

- People v. Darby, 75 NY2d 449, 454 (1990)
- People v. Huston, 88 NY2d 400, 406, 409 (1996)
- People v. Thompson, 22 NY3d 687, 699 (2014), rearg denied 23 NY3d 948 (2014)
- People v. Lancaster, 69 NY2d 20, 25-28 (1986), cert denied 480 US 922 (1987)
- People v. Graham, 148 AD3d 1517, 1519 (4th Dept 2017)
- People v. Valles, 62 NY2d 36, 38-39 (1984)
- People v. Mitchell, 82 NY2d 509, 515 (1993)
- People v. St. John, 215 AD3d 1267, 1268 (4th Dept 2023), lv denied 40 NY3d 999 (2023)
- People v. Nicholson, 26 NY3d 813, 825 (2016)
- People v. Concepcion, 17 NY3d 192, 195 (2011)

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