

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

People v. Feliciano

2025 NY Slip Op 07313 (Appellate Division of the Supreme Court of the State of New York Second Judicial
Department 2025) · No. 2023-08675 · Decided December 24, 2025

OPINION

PER CURIAM.

People v Feliciano (2025 NY Slip Op 07313) People v Feliciano 2025 NY Slip Op 07313
Decided on December 24, 2025 Appellate Division, Second Department Published by New York
State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and
subject to revision before publication in the Official Reports. Decided on December 24, 2025
SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial
Department MARK C. DILLON, J.P.

WILLIAM G. FORD LAURENCE L. LOVE JAMES P. MCCORMACK, JJ. 2023-08675 [*1]The
People of the State of New York, respondent, v Daniel Feliciano, appellant. (S.C.I. No. 90249/19)
Patricia Pazner, New York, NY (Elisabeth R. Calcaterra of counsel), for appellant. Michael E.
McMahon, District Attorney, Staten Island, NY (Thomas B. Litsky and Nicole Kaye of counsel),
for respondent.

DECISION & ORDER Appeal by the defendant from a judgment of the Supreme Court,
Richmond County (Mario F. Mattei, J., at plea; Marina Cora Mundy, J., at sentence), rendered July
12, 2022, convicting him of criminal possession of stolen property in the fifth degree, upon his
plea of guilty, and imposing sentence. ORDERED that the judgment is affirmed.

The defendant's contention that the mandatory surcharge and fees imposed at sentencing (see
Penal Law § 60.35[1][a]) should be waived pursuant to CPL 420.35(2-a) is unpreserved for
appellate review (see id. § 470.05[2]; People v Jawan Lee, 236 AD3d 924; People v Taj W., 235
AD3d 1016, 1016).

Under the circumstances, and in the absence of the People's consent, we decline to reach the issue
in the exercise of our interest of justice jurisdiction (see People v Clarke, _____ AD3d _____,
2025 NY Slip Op 06070).

The defendant's contention that he was denied the effective assistance of counsel at sentencing
based on defense counsel's failure to request that the mandatory surcharge and fees be waived is
without merit (see People v Robinson, 176 AD3d 877).

The defendant failed "to demonstrate the absence of strategic or other legitimate explanations" for defense counsel's alleged shortcoming at the sentencing proceeding (*People v Rivera*, 71 NY2d 705, 709). Under the circumstances, the defendant failed to establish that he received the ineffective assistance of counsel under either the federal or state constitutional standards (see generally *Strickland v Washington*, 466 US 668; *People v Benevento*, 91 NY2d 708, 714).

DILLON, J.P., FORD, LOVE and MCCORMACK, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court

PER CURIAM.

People v Feliciano (2025 NY Slip Op 07313) *People v Feliciano* 2025 NY Slip Op 07313 Decided on December 24, 2025 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on December 24, 2025 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department MARK C. DILLON, J.P.

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DECISION & ORDER Appeal by the defendant from a judgment of the Supreme Court, Richmond County (Mario F. Mattei, J., at plea; Marina Cora Mundy, J., at sentence), rendered July 12, 2022, convicting him of criminal possession of stolen property in the fifth degree, upon his plea of guilty, and imposing sentence. ORDERED that the judgment is affirmed.

The defendant's contention that the mandatory surcharge and fees imposed at sentencing (see Penal Law § 60.35[1][a]) should be waived pursuant to CPL 420.35(2-a) is unpreserved for appellate review (see id. § 470.05[2]; *People v Jawan Lee*, 236 AD3d 924; *People v Taj W.*, 235 AD3d 1016, 1016).

Under the circumstances, and in the absence of the People's consent, we decline to reach the issue in the exercise of our interest of justice jurisdiction (see *People v Clarke*, ____ AD3d ____, 2025 NY Slip Op 06070).

The defendant's contention that he was denied the effective assistance of counsel at sentencing based on defense counsel's failure to request that the mandatory surcharge and fees be waived is without merit (see *People v Robinson*, 176 AD3d 877).

The defendant failed "to demonstrate the absence of strategic or other legitimate explanations" for defense counsel's alleged shortcoming at the sentencing proceeding (People v Rivera, 71 NY2d 705, 709). Under the circumstances, the defendant failed to establish that he received the ineffective assistance of counsel under either the federal or state constitutional standards (see generally Strickland v Washington, 466 US 668; People v Benevento, 91 NY2d 708, 714).

DILLON, J.P., FORD, LOVE and MCCORMACK, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court