

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

The People of the State of New York v. Demar Lewin

2025 NY Slip Op 06731 · No. 2024-05798 · Decided December 3, 2025

SUMMARY

The New York Appellate Division, Second Department, affirmed Demar Lewin's conviction for robbery in the second degree following his guilty plea. The court held that his valid waiver of the right to appeal barred review of his suppression claim, while his challenge to the voluntariness of the plea survived but lacked merit; another contention was unpreserved.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Second Judicial Department
WRITING FOR THE COURT	Francesca E. Connolly, J.P.; Paul Wooten, J.; Janice A. Taylor, J.; Carl J. Landicino, J.
JURISDICTION	New York Appellate Division, Second Department
DECIDED	December 3, 2025
DOCKET	2024-05798
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment convicting him of robbery in the second degree following his guilty plea and imposing sentence.
STANDARD OF REVIEW	Appellate review was governed by the enforceability of defendant's waiver of the right to appeal, preservation requirements, and review of the record as a whole and the circumstances surrounding the guilty plea.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Demar Lewin v. The People of the State of New York

TOPICS

criminal procedure

appellate procedure

suppression of evidence

preservation of error

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether defendant's valid waiver of the right to appeal precluded appellate review of the denial of his motion to suppress identification testimony.
2. Whether defendant's challenge to the knowing, voluntary, and intelligent nature of his guilty plea survived the waiver of the right to appeal and was established by the record.
3. Whether defendant's remaining appellate contention was preserved for review.

HOLDINGS

1. A knowing, voluntary, and intelligent waiver of the right to appeal precluded appellate review of defendant's contention that the County Court erred in denying his motion to suppress identification testimony.
2. A challenge asserting that a guilty plea was not knowing, voluntary, or intelligent survives a valid waiver of the right to appeal, but defendant's plea was valid because the record as a whole and the circumstances surrounding its entry demonstrated that it was knowingly, voluntarily, and intelligently made.
3. Defendant's remaining contention was not preserved for appellate review.

KEY QUOTATIONS

*“The record demonstrates that the defendant knowingly, voluntarily, and intelligently waived his right to appeal” ([*1])*

*“Nonetheless, the record as a whole and the circumstances surrounding the entry of the plea reveal that the defendant's plea was knowingly, voluntarily, and intelligently made” ([*1])*

FACTUAL BACKGROUND

Defendant was charged in Westchester County and ultimately pleaded guilty to robbery in the second degree. He later appealed from the resulting judgment and challenged the denial of his motion to suppress identification testimony and the validity of his guilty plea.

PROCEDURAL HISTORY

The County Court, Westchester County, rendered judgment on May 31, 2024, after defendant pleaded guilty to robbery in the second degree. On appeal, defendant challenged the denial of his motion to suppress identification testimony, the validity of his guilty plea, and raised another contention that the Appellate Division found unpreserved.

DISPOSITION

affirmed

CASES CITED

- People v. Foy, 238 A.D.3d 784, 785
- People v. Corines, 204 A.D.3d 827, 828
- People v. Kemp, 94 N.Y.2d 831, 833
- People v. Oneal, 202 A.D.3d 710, 710
- People v. Sulaiman, 134 A.D.3d 860, 861

OPINION

PER CURIAM.

People v Lewin (2025 NY Slip Op 06731) People v Lewin 2025 NY Slip Op 06731 Decided on December 3, 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 3, 2025 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department FRANCESCA E. CONNOLLY, J.P.

PAUL WOOTEN JANICE A. TAYLOR CARL J. LANDICINO, JJ. 2024-05798 (Ind. No. 72648/22) [*1]The People of the State of New York, respondent, v Demar Lewin, appellant. Law Offices of Christina T. Hall & Associates, PLLC, Harrison, NY (Jonathan Rosenberg of counsel), for appellant. Susan Cacace, District Attorney, White Plains, NY (Steven A. Bender and Raffaelina Gianfrancesco of counsel), for respondent.

DECISION & ORDER Appeal by the defendant from a judgment of the County Court, Westchester County (Robert J. Prisco, J.), rendered May 31, 2024, convicting him of robbery in the second degree, upon his plea of guilty, and imposing sentence. ORDERED that the judgment is affirmed.

The record demonstrates that the defendant knowingly, voluntarily, and intelligently waived his right to appeal (see People v Foy, 238 AD3d 784, 785; People v Corines, 204 AD3d 827, 828). The defendant's valid waiver of the right to appeal precludes appellate review of his contention that the County Court erred in denying his motion to suppress identification testimony (see People v Kemp, 94 NY2d 831, 833; People v Oneal, 202 AD3d 710, 710).

However, the defendant's contention that his plea of guilty was not knowing, voluntary, or intelligent survives the valid waiver of the right to appeal (see People v Corines, 204 AD3d at 828). Nonetheless, the record as a whole and the circumstances surrounding the entry of the plea reveal that the defendant's plea was knowingly, voluntarily, and intelligently made (see *id.*; People v Sulaiman, 134 AD3d 860, 861).

The defendant's remaining contention is not preserved for appellate review. CONNOLLY, J.P., WOOTEN, TAYLOR and LANDICINO, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court

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