

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

People v. Host

2026 NY Slip Op 02301 (N.Y. Ct. App. 2026) · No. 113604 · Decided April 16, 2026

SUMMARY

The Appellate Division, Third Department, affirmed a judgment convicting David Host of first-degree murder upon his guilty plea and sentencing him to 25 years to life. The court held that his challenges to the voluntariness of the plea were unpreserved and, in any event, unsupported by the record, while his excessive-sentence challenge was barred by his appeal waiver.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                   |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Appellate Division of the Supreme Court of the State of New York, Third Department                                                                                                                                                                                                                |
| WRITING FOR THE COURT | Garry, P.J.; Clark, J.; Reynolds Fitzgerald, J.; Corcoran, J.; Ryba, J.                                                                                                                                                                                                                           |
| JURISDICTION          | New York Appellate Division, Third Department                                                                                                                                                                                                                                                     |
| DECIDED               | April 16, 2026                                                                                                                                                                                                                                                                                    |
| DOCKET                | 113604                                                                                                                                                                                                                                                                                            |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                          |
| PROCEDURAL POSTURE    | Defendant appealed from a County Court judgment convicting him upon his guilty plea to first-degree murder and sentencing him to 25 years to life.                                                                                                                                                |
| STANDARD OF REVIEW    | Unpreserved claims were not reviewed absent the applicable exception; the court additionally stated that, if considered, the record did not demonstrate that defendant's mental-health issues affected his understanding of or participation in the plea proceedings or the plea's voluntariness. |
| PRECEDENTIAL VALUE    | Published                                                                                                                                                                                                                                                                                         |
| PARTIES               | David Host v. The People of the State of New York                                                                                                                                                                                                                                                 |

TOPICS

- plea bargaining
- preservation of error
- appellate procedure
- sentencing
- criminal procedure

## PRACTICE AREAS

criminal procedure

appellate practice

### QUESTIONS PRESENTED

1. Whether defendant's challenge to the voluntariness of his guilty plea based on his psychiatric history and a presentence statement was preserved for appellate review.
2. Whether the narrow exception to the preservation requirement applied because defendant made a statement during the plea proceeding casting significant doubt on his guilt or the voluntariness of his plea.
3. Whether the record demonstrated that defendant's mental-health issues interfered with his understanding or participation in the plea proceedings or otherwise affected the plea's voluntariness.
4. Whether defendant's challenge to his sentence as unduly harsh and severe was foreclosed by his appeal waiver.

### HOLDINGS

1. A challenge to the voluntariness of a guilty plea survives a defendant's appeal waiver, regardless of the waiver's validity.
2. Defendant's challenge to the voluntariness of his plea was unpreserved because he did not make an appropriate postallocution motion despite having ample opportunity to do so.
3. The narrow exception to the preservation requirement did not apply because defendant made no statement during the plea proceeding that clearly cast significant doubt on his guilt or called the voluntariness of his plea into question.
4. Even if considered, the record did not establish that defendant's mental-health issues interfered with his ability to understand and participate in the plea proceedings or affected the plea's voluntariness.
5. Defendant's challenge to the sentence as unduly harsh and severe was foreclosed by his unchallenged appeal waiver.

### KEY QUOTATIONS

*“Defendant's challenge to the voluntariness of his plea survives his appeal waiver — regardless of its validity”* ([\*1])

*“clearly casts significant doubt upon the defendant's guilt or otherwise calls into question the voluntariness of the plea”* ([\*1])

### FACTUAL BACKGROUND

Defendant and a codefendant broke into a residence and killed two people. Defendant pleaded guilty to first-degree murder involving multiple victims in satisfaction of an 11-count indictment. The plea agreement required defendant to waive his right to appeal, and he received the agreed sentence of 25 years to life.

### PROCEDURAL HISTORY

Defendant pleaded guilty in February 2022 to first-degree murder involving multiple victims, in satisfaction of an 11-count indictment charging crimes arising from a residential break-in and the killings of two people. The Sullivan County Court rendered judgment on April 29, 2022, imposing the agreed sentence of 25 years to life. The plea agreement included oral and written waivers of the right to appeal. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Scully, 242 AD3d 1259, 1259 (3d Dept. 2025), lv denied 44 NY3d 1068 (2026)
- People v. Oliveira, 244 AD3d 1411, 1411 (3d Dept. 2025)
- People v. Clark, 246 AD3d 1150, 1151 (3d Dept. 2026)
- People v. Mahood, 238 AD3d 1433, 1434 (3d Dept. 2025), lv denied 44 NY3d 983 (2025)
- People v. Taylor, 194 AD3d 1264, 1265 (3d Dept. 2021), lv denied 37 NY3d 975 (2021)
- People v. Rios, 2026 NY Slip Op 00963, \*1 (2026)
- People v. Lopez, 71 NY2d 662, 666 (1988)
- People v. Dolison, 189 AD3d 1779, 1780-1781 (3d Dept. 2020), lv denied 36 NY3d 1119 (2021)
- People v. Taft, 169 AD3d 1266, 1267 (3d Dept. 2019), lv denied 33 NY3d 1074 (2019)
- People v. White, 153 AD3d 1041, 1042 (3d Dept. 2017)
- People v. Kozik, 235 AD3d 1065, 1066 (3d Dept. 2025), lv denied 43 NY3d 964 (2025)

OPINION

PER CURIAM.

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Garry, P.J., Clark, Reynolds Fitzgerald, Corcoran And Ryba, JJ.

Richard L. Herzfeld, New York City, for appellant.

Brian P. Conaty, District Attorney, Monticello (Thomas W. Raleigh of counsel), for respondent.

Appeal from a judgment of the County Court of Sullivan County (James Farrell, J.), rendered April 29, 2022, convicting defendant upon his plea of guilty of the crime of murder in the first degree.

In February 2022, defendant pleaded guilty to murder in the first degree (multiple victims arising from the same criminal transaction) in satisfaction of an 11-count indictment charging him and his codefendant with various crimes stemming from an incident where they broke into a residence and killed two people.

The plea agreement also required defendant to waive his right to appeal both orally and in writing. In accordance with the terms of the plea agreement, defendant was sentenced to a prison term of 25 years to life. Defendant appeals.

We affirm. "Defendant's challenge to the voluntariness of his plea survives his appeal waiver — regardless of its validity" (*People v Scully*, 242 AD3d 1259, 1259 [3d Dept 2025] [citations omitted], *lv denied* 44 NY3d 1068 [2026]; *see* *People v Oliveira*, 244 AD3d 1411, 1411 [3d Dept 2025]).

Defendant's challenge, however, to the voluntariness of his plea based upon his psychiatric history and a statement made during his presentence investigation that he did not intend to kill anyone when he entered the residence is unpreserved for our review as there is no indication that he made an appropriate postallocution motion despite having had ample opportunity to do so (*see* *People v Clark*, 246 AD3d 1150, 1151 [3d Dept 2026]; *People v Mahood*, 238 AD3d 1433, 1434 [3d Dept 2025], *lv denied* 44 NY3d 983 [2025]; *People v Taylor*, 194 AD3d 1264, 1265 [3d Dept 2021], *lv denied* 37 NY3d 975 [2021]).

In addition, the narrow exception to the preservation requirement was not triggered as defendant made no statement during the plea proceeding that " 'clearly casts significant doubt upon the defendant's guilt or otherwise calls into question the voluntariness of the plea' " (*People v Rios*, \_\_ NY3d \_\_, \_\_, 2026 NY Slip Op 00963, \*1 [2026], quoting *People v Lopez*, 71 NY2d 662, 666 [1988]).

In any event, were we to consider defendant's claim upon the record before us including the plea minutes, we would find that there is no indication that defendant's mental health issues interfered with his ability to understand and participate in the plea proceedings or impacted upon the voluntariness of the plea (*see* *People v Dolison*, 189 AD3d 1779, 1780-1781 [3d Dept 2020], *lv denied* 36 NY3d 1119 [2021]; *People v Taft*, 169 AD3d 1266, 1267 [3d Dept 2019], *lv denied* 33 NY3d 1074 [2019]; *People v White*, 153 AD3d 1041, 1042 [3d Dept 2017]).

Finally, defendant's challenge to the sentence imposed as unduly harsh and severe is foreclosed by his unchallenged appeal waiver (*see* *People v Kozik*, 235 AD3d 1065, 1066 [3d

Dept 2025], *lv denied* 43 NY3d 964 [2025]).</p> <p>Garry, P.J., Clark, Reynolds Fitzgerald, Corcoran and Ryba, JJ., concur.</p> <p>ORDERED that the judgment is affirmed.</p> </div> <div> <footer> <div> <p>Court Decisions</p> All Court Decisions Official Reports Service Bound Volumes Decision Search </div> <div> <p>Resources</p> RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index </div> <div> <p>About</p> About the Law Reporting Bureau About our Operations Contact Us Twitter </div> <div> <p>Quick Contact Info</p> <p>17 Lodge Street</p> <p>Albany, NY 12207</p> <p>Phone: (518) 453-6900</p> </div> </footer> </div> <div> <p>Links to or from other sites do not signify endorsement or relationship with them.</p> </div> </div>