

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

People v. Cardoza

2026 NY Slip Op 01215 · No. 2024-03645 · Decided March 4, 2026

SUMMARY

The New York Appellate Division, Second Department, affirmed Balbino Cardoza's convictions for obstructing governmental administration in the second degree and criminal trespass in the third degree. The court rejected his claims that submission of counts on which he was acquitted violated due process and that he received a harsher sentence for exercising his right to a jury trial.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Hector D. LaSalle, P.J.; Cheryl E. Chambers, J.; Paul Wooten, J.; Helen Voutsinas, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	March 4, 2026
DOCKET	2024-03645
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Supreme Court, Nassau County, entered after a jury verdict convicting him of obstructing governmental administration in the second degree and criminal trespass in the third degree and imposing sentence.
STANDARD OF REVIEW	The court reviewed whether the indictment counts were supported by legally sufficient evidence, whether submission of acquitted counts violated due process, whether the sentence reflected vindictiveness for exercising the right to trial, and whether the sentence was excessive.
PRECEDENTIAL VALUE	published
PARTIES	Balbino Cardoza v. The People of the State of New York

TOPICS

criminal procedure

due process

plea bargaining

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the trial court violated due process by refusing to dismiss indictment counts for which defendant was ultimately acquitted and submitting those counts to the jury.
2. Whether the sentence imposed after trial was punitive or vindictive because it exceeded the sentence offered during plea negotiations.
3. Whether the sentence imposed was excessive.

HOLDINGS

1. The trial court did not violate defendant's due process rights by refusing to dismiss the assault and resisting-arrest counts and submitting them to the jury because legally sufficient evidence supported those counts, and defendant did not show that the jury's consideration of them unfairly burdened him through extraneous considerations.
2. The fact that the sentence imposed after trial exceeded the sentence offered during plea negotiations, standing alone, did not establish that defendant was punished for exercising his right to a jury trial; the record showed no vindictiveness or retribution.
3. The sentence imposed was not excessive.

KEY QUOTATIONS

“[T]he fact that the sentence imposed after trial was greater than the sentence offered during plea negotiations is not, standing alone, an indication that the defendant was punished for proceeding to trial There is no indication in the record that the sentence is the result of vindictiveness or retribution for the defendant's refusal to accept a plea offer and the exercise of his right to a jury trial”

“interjection of extraneous considerations [which] unfairly burdened the defendant” (524)

FACTUAL BACKGROUND

Defendant was tried on charges including assault in the second degree, resisting arrest, obstructing governmental administration in the second degree, and criminal trespass in the third degree. The jury acquitted him of assault and resisting arrest but convicted him of obstructing governmental administration and criminal trespass. The sentence imposed after trial was greater than the sentence offered during plea negotiations, and the trial court relied in part on a presentence investigative report.

PROCEDURAL HISTORY

The Supreme Court, Nassau County, refused to dismiss indictment counts charging assault in the second degree and resisting arrest, submitted those counts to the jury, and defendant was acquitted of them. The jury convicted

defendant of obstructing governmental administration in the second degree and criminal trespass in the third degree. The trial court imposed sentence, and the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Shorter, 226 AD3d 932
- People v. Alman, 185 AD3d 714, 717
- People v. Paucar, 242 AD3d 1220, 1221
- People v. De Jesus, 42 NY2d 519, 524
- People v. Tyme, 222 AD3d 783, 785
- People v. Matthews, 195 AD3d 864, 866
- People v. Suitte, 90 AD2d 80

OPINION

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PER CURIAM.

People v Cardoza (2026 NY Slip Op 01215) People v Cardoza 2026 NY Slip Op 01215 Decided on March 4, 2026 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 March 4, 2026

SUPREME COURT OF THE STATE OF NEW YORK

Appellate Division, Second Judicial Department HECTOR D. LASALLE, P.J.

CHERYL E. CHAMBERS

PAUL WOOTEN

HELEN VOUTSINAS, JJ. 2024-03645

(Ind. No. 70204/24) [*1]The People of the State of New York, respondent, v Balbino Cardoza, appellant. Marianne Karas, Thornwood, NY, for appellant. Anne T. Donnelly, District Attorney, Mineola, NY (Kevin C. King and Cristin N. Connell of counsel), for respondent. DECISION & ORDER Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Christopher G. Quinn, J.), rendered June 25, 2024, convicting him of obstructing governmental administration in the second degree and criminal trespass in the third degree, upon a jury verdict, and imposing sentence. ORDERED that the judgment is affirmed. Contrary to the defendant's contention, his due process rights were not violated by the Supreme Court's failure to dismiss the counts of the indictment charging him with assault in the second degree (Penal Law § 120.05[3]) and resisting arrest (Penal Law § 205.30), for which he was ultimately acquitted. As an initial matter, the court did not err in its determination not to dismiss those counts, as there was legally

sufficient evidence to support them (see *People v Shorter* , 226 AD3d 932 ; *People v Alman* , 185 AD3d 714, 717). In any event, the defendant fails to demonstrate that his due process rights were violated by the submission of those counts to the jury (see *People v Paucar* , 242 AD3d 1220 , 1221). The defendant's reliance upon *People v De Jesus* (42 NY2d 519) is misplaced, as it is factually inapposite to the case at bar. The defendant has failed to demonstrate that the jury's consideration of counts upon which the defendant was ultimately acquitted constituted the "interjection of extraneous considerations [which] unfairly burdened the defendant" (*id.* at 524). The defendant's contention that the Supreme Court imposed a harsher sentence as punishment for exercising his right to a jury trial is without merit. "[T]he fact that the sentence imposed after trial was greater than the sentence offered during plea negotiations is not, standing alone, an indication that the defendant was punished for proceeding to trial There is no indication in the record that the sentence is the result of vindictiveness or retribution for the defendant's refusal to accept a plea offer and the exercise of his right to a jury trial" (*People v Tyme* , 222 AD3d 783, 785 ; see *People v Matthews* , 195 AD3d 864, 866). To the contrary, the record reflects that the court relied upon, *inter alia*, a presentence investigative report prepared by the Department of Probation in sentencing the defendant to a higher sentence than that which he was offered during plea negotiations (see *People v Matthews* , 195 AD3d at 866). Moreover, the sentence imposed was not excessive (see *People v Suitte* , 90 AD2d 80). LASALLE, P.J., CHAMBERS, WOOTEN and VOUTSINAS, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court