

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

People v. Greenspan

2020 NY Slip Op 04408 (N.Y. Ct. App. 2020) · No. 2017-06063 · Decided August 5, 2020

SUMMARY

The Appellate Division, Second Department, reversed Daniel Greenspan's murder conviction and remitted the matter for a new trial before a different Justice. The court held that the trial court deprived the defendant of a fair trial by negotiating a plea agreement with a testifying codefendant that required testimony against the defendant in exchange for a more favorable sentence.

CASE DETAILS

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|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of New York, Appellate Division, Second Judicial Department                                                                                                                                                                                                                |
| WRITING FOR THE COURT | John M. Leventhal, J.P.; Joseph J. Maltese, J.; Colleen D. Duffy, J.; Linda Christopher, J.                                                                                                                                                                                                           |
| JURISDICTION          | New York                                                                                                                                                                                                                                                                                              |
| DECIDED               | August 5, 2020                                                                                                                                                                                                                                                                                        |
| DOCKET                | 2017-06063                                                                                                                                                                                                                                                                                            |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Defendant appealed from a judgment of the County Court, Suffolk County, convicting him of murder in the second degree after a jury trial and imposing sentence.                                                                                                                                       |
| STANDARD OF REVIEW    | The Appellate Division independently reviews the weight of the evidence under CPL 470.15(5), while giving great deference to the jury's opportunity to observe witnesses, hear testimony, and assess demeanor. Unpreserved issues may be reached in the exercise of interest-of-justice jurisdiction. |
| PRECEDENTIAL VALUE    | Published intermediate appellate opinion; precedential under applicable New York law.                                                                                                                                                                                                                 |
| PARTIES               | Daniel Greenspan v. The People of the State of New York                                                                                                                                                                                                                                               |

TOPICS

criminal procedure

plea bargaining

due process

appellate procedure

standard of review

## PRACTICE AREAS

criminal procedure

appellate practice

constitutional law

## QUESTIONS PRESENTED

1. Whether the murder conviction was against the weight of the evidence.
2. Whether the County Court deprived the defendant of due process and a fair trial by negotiating and entering into a plea or sentencing agreement with a testifying codefendant in exchange for that codefendant's testimony against the defendant.
3. Whether the unpreserved fair-trial claim should be reviewed in the interest of justice.

## HOLDINGS

1. The verdict finding the defendant guilty of second-degree murder was not against the weight of the evidence.
2. A trial court commits reversible error when it negotiates and enters into an agreement with a codefendant requiring that codefendant to testify against the defendant in exchange for a more favorable sentence.
3. The Appellate Division exercised its interest-of-justice jurisdiction to review the defendant's otherwise unpreserved claim.

## KEY QUOTATIONS

*“the trial court abandoned the role of a neutral arbiter and assumed the function of an interested party, thereby creating a specter of bias that requires reversal”* ([\*2])

*“negotiated and entered into a [plea] agreement with a codefendant requiring that individual to testify against defendant in exchange for a more favorable sentence”* ([\*2])

## FACTUAL BACKGROUND

A codefendant testified against Greenspan at his jury trial for second-degree murder. The People had agreed to recommend a determinate sentence of two to seven years for the codefendant's guilty plea to attempted robbery in the second degree. The County Court separately promised the codefendant probation in exchange for her testimony against Greenspan. Greenspan was convicted of second-degree murder.

## PROCEDURAL HISTORY

Greenspan was charged with second-degree murder and convicted following a jury trial at which a codefendant testified against him. He appealed, arguing that the verdict was against the weight of the evidence and that the trial court violated his due process right to a fair trial by entering into a sentencing agreement with the testifying codefendant. The Appellate Division rejected the weight-of-the-evidence claim but reached the unpreserved plea-agreement issue in the interest of justice and reversed for a new trial before a different Justice.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

The judgment was reversed as a matter of discretion in the interest of justice, and the matter was remitted to the County Court, Suffolk County, for a new trial before a different Justice.

## CASES CITED

- People v. Danielson, 9 NY3d 342
- People v. Mateo, 2 NY3d 383, 410
- People v. Bleakley, 69 NY2d 490, 495
- People v. Romero, 7 NY3d 633
- People v. Towns, 33 NY3d 326, 328
- People v. Lawhorn, 178 AD3d 1466

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