

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

People v. Wilhelm

2022 NY Slip Op 07206 (N.Y. Ct. App. 2022) · No. Ind. No. 972/15; Appeal No. 16317; Case No. 2016-857 · Decided December 20, 2022

SUMMARY

The Appellate Division, First Department, unanimously affirmed the Bronx County Supreme Court judgment convicting Miguel Wilhelm. The court granted appointed counsel's motion to withdraw under *Anders v. California*, concluding that the appeal presented no nonfrivolous issues, and described the procedure for seeking leave to appeal to the Court of Appeals.

CASE DETAILS

|                       |                                                                                                                                                           |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Appellate Division of the Supreme Court of the State of New York, First Department                                                                        |
| WRITING FOR THE COURT | Gische, J.P.; Friedman, J.; Scarpulla, J.; Rodriguez, J.; Higgitt, J.                                                                                     |
| JURISDICTION          | New York                                                                                                                                                  |
| DECIDED               | December 20, 2022                                                                                                                                         |
| DOCKET                | Ind. No. 972/15; Appeal No. 16317; Case No. 2016-857                                                                                                      |
| DISPOSITION           | affirmed                                                                                                                                                  |
| PROCEDURAL POSTURE    | Defendant appealed from a judgment of the Supreme Court, Bronx County, and his assigned counsel moved to withdraw under <i>Anders v. California</i> .     |
| STANDARD OF REVIEW    | The court independently reviewed the record in accordance with <i>Anders v. California</i> to determine whether any nonfrivolous appellate issue existed. |
| PRECEDENTIAL VALUE    | Published appellate decision                                                                                                                              |
| PARTIES               | Miguel Wilhelm, Defendant-Appellant v. The People of the State of New York, Respondent                                                                    |

TOPICS

- appellate procedure
- criminal procedure
- right to counsel

## PRACTICE AREAS

criminal appellate practice

appellate procedure

right to counsel

## QUESTIONS PRESENTED

1. Whether assigned appellate counsel should be permitted to withdraw under *Anders v. California* because the record presented no nonfrivolous issue.
2. Whether the judgment should be affirmed after the appellate court's independent review of the record.

## HOLDINGS

1. Counsel's application to withdraw was granted because the court agreed that the record presented no nonfrivolous points that could be raised on appeal.
2. The judgment of Supreme Court, Bronx County, was unanimously affirmed.

## KEY QUOTATIONS

*"We have reviewed this record and agree with defendant's assigned counsel that there are no non-frivolous points which could be raised on this appeal."*

## FACTUAL BACKGROUND

The opinion does not describe the underlying criminal conduct or trial evidence. It identifies only the existence of a judgment rendered by Supreme Court, Bronx County, on June 8, 2015, from which defendant appealed.

## PROCEDURAL HISTORY

The Supreme Court, Bronx County, rendered judgment on June 8, 2015. On appeal, assigned counsel sought permission to withdraw, asserting that no nonfrivolous issues existed. The Appellate Division reviewed the record, granted counsel's application, and unanimously affirmed the judgment.

## DISPOSITION

affirmed

## CASES CITED

- *Anders v. California*, 386 U.S. 738 (1967)
- *People v. Saunders*, 52 A.D.2d 833 (1st Dep't 1976)

## OPINION

### PER CURIAM.

*People v Wilhelm* (2022 NY Slip Op 07206) *People v Wilhelm* 2022 NY Slip Op 07206 Decided on December 20, 2022 Appellate Division, First 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 and Entered: December 20, 2022 Before: Gische, J.P., Friedman, Scarpulla, Rodriguez, Higgitt, JJ. Ind. No. 972/15 Appeal No. 16317 Case No. 2016-857 [\*1]The People of The State of New York, Respondent, vMiguel Wilhelm, Defendant-Appellant.

Seymour W. James, Jr., The Legal Aid Society, New York (Joanne Legano Ross of counsel), for appellant. Judgment, Supreme Court, Bronx County (George R. Villegas, J.), rendered June 08, 2015, unanimously affirmed. Application by defendant's counsel to withdraw as counsel is granted (see *Anders v California*, 386 US 738 [1967]; *People v Saunders*, 52 AD2d 833 [1st Dept 1976]).

We have reviewed this record and agree with defendant's assigned counsel that there are no non-frivolous points which could be raised on this appeal. Pursuant to Criminal Procedure Law § 460.20, defendant may apply for leave to appeal to the Court of Appeals by making application to the Chief Judge of that Court and by submitting such application to the Clerk of that Court or to a Justice of the Appellate Division of the Supreme Court of this Department on reasonable notice to the respondent within thirty (30) days after service of a copy of this order.

Denial of the application for permission to appeal by the judge or justice first applied to is final and no new application may thereafter be made to any other judge or justice. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: December 20, 2022