

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

People v. Perdomo

2025 NY Slip Op 07342 (N.Y. Ct. App. 2025) · No. SCI No. 74153/23; Appeal No. 5459; Case No. 2023-05396 · Decided December 30, 2025

SUMMARY

The Appellate Division, First Department modified Neil Perdomo's criminal judgment by striking the condition of probation requiring payment of the surcharge and other fees, and otherwise affirmed. The court upheld other probation conditions, rejected or declined to reach the defendant's challenges, and found no basis to reduce the sentence.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Moulton, J.P.; Scarpulla, J.; Rosado, J.; O'Neill Levy, J.; Chan, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	December 30, 2025
DOCKET	SCI No. 74153/23; Appeal No. 5459; Case No. 2023-05396
DISPOSITION	other
PROCEDURAL POSTURE	Defendant appealed from a judgment of Supreme Court, New York County, convicting him upon his plea of attempted criminal possession of a weapon in the second degree and sentencing him to six months in jail and five years of probation.
PRECEDENTIAL VALUE	published
PARTIES	Neil Perdomo, Defendant-Appellant v. The People of the State of New York, Respondent

TOPICS

- probation
- sentencing
- appellate procedure
- preservation of error
- criminal procedure

PRACTICE AREAS

- criminal law
- criminal procedure
- sentencing
- probation
- appellate practice

QUESTIONS PRESENTED

1. Whether defendant's waiver of the right to appeal foreclosed his challenge to the excessiveness of his sentence.
2. Whether the probation condition requiring defendant to avoid injurious or vicious habits, unlawful or disreputable places, and disreputable people was a proper condition of probation.
3. Whether the sentencing court improperly imposed payment of the surcharge and other fees as a condition of probation.
4. Whether defendant's constitutional challenges to the challenged probation condition were preserved for appellate review.

HOLDINGS

1. Defendant's waiver of the right to appeal was valid and therefore foreclosed his claim that the sentence was excessive.
2. The probation condition was properly imposed because it would reasonably assist defendant in leading a law-abiding life.
3. Defendant's constitutional challenges were unpreserved, and the court declined to reach them in the interest of justice.
4. The sentencing court improperly imposed payment of the surcharge and other fees as a condition of probation because that requirement was not reasonably related to defendant's rehabilitation or necessary to ensure that he would lead a law-abiding life.

KEY QUOTATIONS

*“However, the sentencing court improperly imposed, as a condition of probation, a requirement of payment of the surcharge and other fees imposed at sentencing, as it is not reasonably related to defendant's rehabilitation or necessary to ensure that he will lead a law-abiding life” (*1)*

*“This condition would reasonably assist defendant in leading a law-abiding life, given his admission of gang affiliation, substance abuse, and expressed desire to change his life and "benefit from his impending probation term"” (*1)*

FACTUAL BACKGROUND

Defendant was convicted of attempted criminal possession of a weapon in the second degree after an offense involving brandishing and firing a gun. He admitted that he was under the influence of alcohol and drugs during the offense, had gang affiliation and substance-abuse issues, and expressed a desire to change his life and benefit from probation. The sentencing court imposed six months in jail and five years of probation, including conditions concerning injurious or vicious habits, unlawful or disreputable places, disreputable people, and payment of surcharges and fees.

PROCEDURAL HISTORY

Supreme Court, New York County, entered judgment on October 17, 2023, after a plea and sentencing proceedings. On appeal, the Appellate Division held that defendant's appeal waiver foreclosed his excessive-sentence claim, upheld one probation condition, and modified the judgment by striking the condition requiring payment of the surcharge and fees as a condition of probation.

DISPOSITION

other

CASES CITED

- People v. Thomas, 34 NY3d 545 (2019), cert. denied, 589 U.S. —, 140 S. Ct. 2634 (2020)
- People v. Bryant, 28 NY3d 1094 (2016)
- People v. Lowndes, 239 AD3d 574, 575 (1st Dep't 2025)
- People v. Cabrera, 41 NY3d 53, 42 (2023)
- People v. Wood, 239 AD3d 484, 484 (1st Dep't 2025)
- People v. Percy, 234 AD3d 619, 620 (1st Dep't 2025)