

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

People v. Raimo

2026 NY Slip Op 02678 · No. 2024-09343 ON MOTION · Decided April 29, 2026

SUMMARY

The New York Appellate Division, Second Department granted assigned counsel’s motion to withdraw under Anders v. California after finding counsel’s brief deficient. The court assigned new counsel, directed production of the certified transcript, and set briefing deadlines. It identified potentially nonfrivolous issues concerning the validity of the defendant’s appeal waiver and whether her sentence was excessive.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Angela G. Iannacci, J.P.; Deborah A. Dowling, J.; Lourdes M. Ventura, J.; Donna-Marie E. Golia, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	April 29, 2026
DOCKET	2024-09343 ON MOTION
DISPOSITION	other
PROCEDURAL POSTURE	Defendant appealed from a judgment convicting her upon her plea of guilty of attempted murder in the second degree and imposing sentence. Assigned appellate counsel filed an Anders brief and moved to withdraw.
STANDARD OF REVIEW	The court independently reviewed the record to determine whether the Anders brief adequately searched for and identified arguable appellate issues and whether nonfrivolous issues existed.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Olivia Raimo v. The People of the State of New York

TOPICS

appellate procedure

right to counsel

criminal procedure

sentencing

PRACTICE AREAS

criminal appellate practice

right to counsel

sentencing

QUESTIONS PRESENTED

1. Whether assigned appellate counsel's Anders brief adequately demonstrated a diligent and thorough search of the record for arguable appellate claims.
2. Whether counsel's deficient Anders brief required the assignment of new appellate counsel.
3. Whether the record presented nonfrivolous issues concerning the validity of defendant's waiver of the right to appeal and the excessiveness of her sentence.

HOLDINGS

1. An Anders brief is deficient when it fails to review all relevant facts, analyze potential appellate issues, and explain the basis for its conclusions, including a conclusion that a defendant's appeal waiver was valid.
2. When assigned counsel files a deficient Anders brief, the court must assign new counsel to represent the appellant on the appeal.
3. The record presented potentially nonfrivolous issues regarding the validity of defendant's appeal waiver and whether her sentence was excessive.

KEY QUOTATIONS

“An adequate Anders brief ‘must, at a minimum, draw the Court’s attention to the relevant evidence, with specific references to the record; identify and assess the efficacy of any significant objections, applications, or motions; and identify possible issues for appeal, with reference to the facts of the case and relevant legal authority’” (at 1-2)

“where counsel has failed in his or her role as advocate by filing a deficient brief, on this basis alone, new counsel will be assigned to represent the appellant on the appeal” (at 2)

FACTUAL BACKGROUND

Olivia Raimo was convicted of attempted murder in the second degree after pleading guilty and was sentenced by the Supreme Court, Westchester County, on January 13, 2022. Her assigned appellate counsel submitted an Anders brief seeking permission to withdraw, but the brief did not adequately review the facts, including the presentence investigation report, analyze potential appellate issues, or explain the conclusion that the appeal waiver was valid.

PROCEDURAL HISTORY

The Supreme Court, Westchester County, rendered judgment on January 13, 2022, after defendant pleaded guilty to attempted murder in the second degree and was sentenced. On appeal, assigned counsel moved to withdraw

under *Anders v. California*. The Appellate Division found the *Anders* brief deficient, identified potentially nonfrivolous appellate issues, granted counsel's motion to withdraw, assigned new counsel, and directed the parties to file appellate briefs.

DISPOSITION

other

REMAND INSTRUCTIONS

Jason M. Bernheimer's motion for leave to withdraw was granted; Gerald Zuckerman was assigned as new appellate counsel. The respondent was directed to provide the certified transcript to new counsel. New counsel must serve and file an appellant's brief within 90 days, and the respondent must file its brief within 30 days thereafter.

CASES CITED

- *Anders v. California*, 386 U.S. 738
- *Matter of Giovanni S. [Jasmin A.]*, 89 A.D.3d 252, 255, 258
- *Penson v. Ohio*, 488 U.S. 75, 83
- *People v. Anthony*, 245 A.D.3d 821, 822-823
- *People v. Murray*, 169 A.D.3d 227, 231-232
- *People v. Collins*, 239 A.D.3d 990, 991
- *People v. Ramirez*, 236 A.D.3d 822, 824
- *People v. Thomas*, 34 N.Y.3d 545
- *People v. Suitte*, 90 A.D.2d 80

OPINION

People v. Raimo 2026 NY Slip Op 02678

PER CURIAM.

People v Raimo - 2026 NY Slip Op 02678 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions People v Raimo 2026 NY Slip Op 02678 April 29, 2026 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This decision is uncorrected and subject to revision before publication in the Official Reports. The People of the State of New York, respondent, v Olivia Raimo, appellant. Supreme Court of the State of New York, Appellate Division, Second Judicial Department Decided on April 29, 2026 2024-09343 ON MOTION, (Ind. No. 383/20) Angela G. Iannacci, J.P. Deborah A. Dowling Lourdes M. Ventura Donna-Marie E. Golia, JJ. Jason M. Bernheimer, Chappaqua, NY, for appellant, and appellant pro se. Susan Cacace, District Attorney, White Plains, NY (Raffaelina Gianfrancesco of counsel), for

respondent. [*1] DECISION & ORDER Appeal by the defendant from a judgment of the Supreme Court, Westchester County (Barry E. Warhit, J.), rendered January 13, 2022, convicting her of attempted murder in the second degree, upon her plea of guilty, and imposing sentence. Assigned counsel has submitted a brief in accordance with *Anders v California* (386 US 738), in which he moves for leave to withdraw as counsel for the appellant. ORDERED that the motion of Jason M. Bernheimer for leave to withdraw as counsel for the appellant is granted, and Jason M. Bernheimer is directed to turn over all papers in his possession to new counsel assigned herein; and it is further, ORDERED that Gerald Zuckerman, PO Box 392, Croton-On-Hudson, NY 10520, is assigned as counsel to prosecute the appeal; and it is further, ORDERED that the respondent is directed to furnish a copy of the certified transcript of the proceedings to the appellant's new assigned counsel; and it is further, ORDERED that new counsel shall serve and file a brief on behalf of the appellant within 90 days of the date of this decision and order on motion, and the respondent shall serve and file its brief within 30 days after the brief on behalf of the appellant is served and filed. By prior decision and order on motion of this Court dated March 5, 2025, the appellant was granted a waiver of costs, fees, and expenses and the assignment of counsel, with the appeal to be heard on the original papers, including a certified transcript of the proceedings, and on the briefs of the parties. The parties are directed to upload, through the digital portal on this Court's website, digital copies of their respective briefs, with proof of service of one hard copy on each other (see 22 NYCRR 670.9[a]). In reviewing an attorney's motion to be relieved pursuant to *Anders v California* (386 US 738), this Court must first "satisfy itself that the attorney has provided the client with a diligent and thorough search of the record for any arguable claim that might support the client's appeal" (*Matter of Giovanni S. [Jasmin A.]* , 89 AD3d 252, 255 [emphasis omitted], quoting *Penson v Ohio* , 488 US 75, 83). "An adequate *Anders* brief 'must, at a minimum, draw the Court's attention to the [*2] relevant evidence, with specific references to the record; identify and assess the efficacy of any significant objections, applications, or motions; and identify possible issues for appeal, with reference to the facts of the case and relevant legal authority'" (*People v Anthony* , 245 AD3d 821 , 822, quoting *Matter of Giovanni S. [Jasmin A.]* , 89 AD3d at 258 ; see *People v Murray* , 169 AD3d 227 , 231-232). "[W]here counsel has failed in his or her role as advocate by filing a deficient brief, on this basis alone, new counsel will be assigned to represent the appellant on the appeal" (*Matter of Giovanni S. [Jasmin A.]* , 89 AD3d at 258 ; see *People v Anthony* , 245 AD3d at 822). Here, the brief submitted by assigned counsel pursuant to *Anders v California* is deficient because it fails to properly review all the facts, including those contained in the presentence investigation report, fails to analyze potential appellate issues, and does not discuss the basis of certain conclusions, including the conclusory assertion that the appeal waiver was valid (see *People v Anthony* , 245 AD3d at 822-823; *People v Collins* , 239 AD3d 990 , 991; *People v Ramirez* , 236 AD3d 822 , 824). Further, upon this Court's independent review of the record, we conclude that nonfrivolous issues exist, including, but not necessarily limited to, whether the defendant's waiver of her right to appeal was valid (see

People v Thomas , 34 NY3d 545) and whether the defendant's sentence was excessive (see People v Suitte , 90 AD2d 80). IANNACCI, J.P., DOWLING, VENTURA and GOLIA, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.

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