

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