

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

People v. Wilson

2026 NY Slip Op 01858 · No. Case No. 2023-00933; Appeal No. 6208; Ind. Nos. 225/21 and 319/21 · Decided
March 26, 2026

SUMMARY

The Appellate Division, First Department, modified the judgments convicting Tayquan Wilson of attempted first-degree robbery and attempted second-degree criminal possession of a weapon by vacating the surcharges and fees, and otherwise affirmed. The court rejected or declined to review claims concerning sentencing, suppression of a firearm, youthful offender treatment, and the constitutionality of New York's firearm licensing scheme.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Webber, J.P.; González, J.; Mendez, J.; O'Neill Levy, J.; Hagler, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	March 26, 2026
DOCKET	Case No. 2023-00933; Appeal No. 6208; Ind. Nos. 225/21 and 319/21
DISPOSITION	other
PROCEDURAL POSTURE	Defendant appealed from judgments of Supreme Court, Bronx County, convicting him after pleas of attempted robbery in the first degree and attempted criminal possession of a weapon in the second degree and sentencing him to concurrent terms of three and one-half years.
STANDARD OF REVIEW	The court reviewed preserved legal claims and suppression issues under the applicable legal standards, declined to review unpreserved claims in the interest of justice, and exercised its discretionary interest-of-justice authority to vacate the surcharges and fees.
PRECEDENTIAL VALUE	Published
PARTIES	Tayquan Wilson v. The People of the State of New York

TOPICS

criminal procedure

suppression of evidence

second amendment

preservation of error

appellate procedure

PRACTICE AREAS

criminal law

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QUESTIONS PRESENTED

1. Whether defendant's appeal waiver foreclosed review of his excessive-sentence, suppression, and youthful-offender-treatment claims.
2. Whether the pre-enactment search of defendant and recovery of the firearm were supported by probable cause under the law in effect at the time of the search.
3. Whether defendant preserved his claim that Penal Law § 222.05(3) precluded a finding that probable cause existed for the pre-enactment search.
4. Whether the court properly denied youthful offender treatment, including whether a presentence interview by the Department of Probation was legally required.
5. Whether defendant had standing to challenge New York's firearm-licensing scheme without having applied for a license.
6. Whether defendant established that the indictment or New York's firearm-licensing restrictions were unconstitutional under *New York State Rifle & Pistol Assn., Inc. v. Bruen*.
7. Whether the appellate court should vacate the surcharges and fees imposed at sentencing in the interest of justice.

HOLDINGS

1. A valid waiver of the right to appeal foreclosed review of defendant's excessive-sentence claim, suppression claim, and challenge to the discretionary denial of youthful offender treatment.
2. The suppression court properly denied defendant's motion because, under the law in effect when the search occurred, the odor of marijuana and observed marijuana cigarettes authorized the police to search the vehicle and defendant, and the firearm recovered from defendant's waistband was lawfully seized.
3. Defendant's claim that Penal Law § 222.05(3) barred the court from finding probable cause for the pre-enactment search was unpreserved because he did not raise it before the court that decided his suppression motion.
4. Defendant's claim concerning the absence of a Department of Probation presentence interview was unpreserved, and, in any event, a presentence interview is not a legal requirement; the court properly declined to grant youthful offender treatment.
5. Defendant's valid appeal waiver did not foreclose review of his Second Amendment claim, and he had standing to challenge New York's firearm-licensing scheme despite never having applied for a firearm license; nevertheless, he failed to establish that the indictment was unconstitutional under *Bruen*.
6. Defendant's challenge to Penal Law § 400.00(1)(a) was unpreserved because he did not raise it in his motion to dismiss the indictment; alternatively, the challenge was unavailing.

7. The appellate court exercised its interest-of-justice powers to vacate the surcharges and fees imposed at sentencing.

KEY QUOTATIONS

*“A pre-sentence interview “is not a legal requirement,”” (*1)*

FACTUAL BACKGROUND

Police approached a double-parked vehicle in which defendant was seated alone in the passenger seat, in violation of Vehicle and Traffic Law § 1202(a)(1)(a). The officer detected the distinctive odor of marijuana emanating from the vehicle and observed marijuana cigarettes in the center console. A search of defendant revealed a firearm in his waistband, and defendant was later convicted by plea of attempted robbery in the first degree and attempted criminal possession of a weapon in the second degree.

PROCEDURAL HISTORY

Supreme Court denied defendant's suppression motion, denied his motion to dismiss the indictment, denied youthful offender treatment, accepted his pleas, and imposed concurrent sentences. The Appellate Division unanimously modified the judgments in the interest of justice by vacating the surcharges and fees imposed at sentencing and otherwise affirmed.

DISPOSITION

other

CASES CITED

- People v. Thomas, 34 NY3d 545, 559 [2019], cert denied 589 US 1302 [2020]
- People v. Bawa, 234 AD3d 601, 602 [1st Dept 2025], lv denied 43 NY3d 943 [2025]
- People v. Badger, 52 AD3d 231, 232 [1st Dept 2008], lv denied 10 NY3d 955 [2008]
- People v. Williams, 244 AD3d 1785, 1786 [4th Dept 2025]
- People v. Pastrana, 41 NY3d 23, 30 n * [2023], cert denied — US &mdash, 144 S Ct 1066 [2024]
- People v. Pacherille, 25 NY3d 1021, 1024 [2015]
- People v. Braswell, 149 AD3d 580, 580 [2017], lv denied 29 NY3d 1124 [2017]
- People v. Folk, 209 AD3d 590, 591 [1st Dept 2022], lv denied 39 NY3d 985 [2022]
- People v. Rodriguez, — AD3d —, 2026 NY Slip Op 00475, *1 [1st Dept 2026]
- People v. Johnson, — NY3d —, 2025 NY Slip Op 06528, *2 [2025]
- New York State Rifle & Pistol Assn., Inc. v. Bruen, 597 US 1 [2022]
- People v. Johnson, 2025 NY Slip Op 05628, *2
- People v. Maldonado, 242 AD3d 419, 420 [1st Dept 2025], lv denied 44 NY3d 1053 [2025]
- People v. Cabrera, 41 NY3d 35, 42-51 [2023]
- People v. Tarazona, 239 AD3d 544, 545 [1st Dept 2025], lv denied 44 NY3d 1013 [2025]

- People v. Johnson, 231 AD3d 679, 679-680 [1st Dept 2024], lv denied 42 NY3d 1053 [2024]

OPINION

PER CURIAM.

People v Wilson (2026 NY Slip Op 01858) People v Wilson 2026 NY Slip Op 01858 Decided on March 26, 2026 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: March 26, 2026 Before: Webber, J.P., González, Mendez, O'Neill Levy, Hagler, JJ. Ind. No. 225/21, 319/21|Appeal No. 6208|Case No. 2023-00933| [*1]The People of the State of New York, Respondent, v Tayquan Wilson, Appellant.

Twyla Carter, The Legal Aid Society, New York (Claire Glass of counsel), for appellant. Darcel D. Clark, District Attorney, Bronx (Emily Anne Aldridge of counsel), for respondent. Judgments, Supreme Court, Bronx County (Steven Barrett, J. at suppression hearing; Dineen A. Riviezzo, J. on motion to dismiss; Albert Lorenzo, J. at plea and sentencing), rendered January 19, 2023, convicting defendant of attempted robbery in the first degree under indictment No. 225/21, and attempted criminal possession of a weapon in the second degree under indictment No. 319/21, and sentencing him to concurrent terms of 3½ years, unanimously modified, as a matter of discretion in the interest of justice, to the extent of vacating the surcharges and fees imposed at sentencing, and otherwise affirmed.

Defendant made a valid waiver of his right to appeal (see People v Thomas, 34 NY3d 545, 559 [2019], cert denied 589 US 1302 [2020]), which forecloses review of his excessive sentence claim (see People v Bawa, 234 AD3d 601, 602 [1st Dept 2025], lv denied 43 NY3d 943 [2025]).

In any event, we perceive no basis for reducing the sentence. Defendant's valid waiver of his right to appeal also forecloses review of his suppression claim (see id.). In any event, we find that Supreme Court properly denied defendant's motion seeking to suppress the firearm recovered from his person.

The evidence established that defendant was seated alone in the passenger seat of a double-parked car on the road, in violation of Vehicle and Traffic Law § 1202(a)(1)(a). Upon approaching the vehicle, a police officer detected the distinctive odor of marijuana emanating from the vehicle and observed marijuana cigarettes in the center console.

Under the law at that time, the police were authorized to search both the car and defendant, the latter of which revealed the presence of a firearm in defendant's waistband that the police lawfully recovered (see People v Badger, 52 AD3d 231, 232 [1st Dept 2008], lv denied 10 NY3d 955 [2008]). Defendant's claim that Penal Law § 222.05(3), enacted under the Marijuana Regulation and Taxation Act and effective March 31, 2021 (see L 2021, ch 92), precluded the court from

finding, at the post-enactment suppression hearing conducted on April 4, 2022, that probable cause existed to justify the pre-enactment search conducted on November 25, 2020, is unpreserved since he never raised this claim to the court that decided his motion to suppress evidence (see *People v Williams*, 244 AD3d 1785, 1786 [4th Dept 2025]; see also *People v Pastrana*, 41 NY3d 23, 30 n * [2023], cert denied — US —, 144 S Ct 1066 [2024]), and we decline to review it in the interest of justice.

Defendant's valid appeal waiver also forecloses review of the court's discretionary denial of youthful offender treatment (see *People v Pacherille*, 25 NY3d 1021, 1024 [2015]). In any event, defendant did not preserve his claim that the court improperly denied his request for youthful offender treatment because he was not interviewed in connection with the pre-sentence report by the Department of Probation (see *People v Braswell*, 149 AD3d 580, 580 [2017], lv denied 29 NY3d 1124 [2017]), and we decline to review it in the interest of justice.

As an alternative holding, we find that the court properly declined to grant youthful offender treatment (see e.g. *People v Folk*, 209 AD3d 590, 591 [1st Dept 2022], lv denied 39 NY3d 985 [2022]). A pre-sentence interview "is not a legal requirement," (*People v Rodriguez*, — AD3d —, 2026 NY Slip Op 00475, *1 [1st Dept 2026]). Defendant's valid appeal waiver does not foreclose from review his Second Amendment claim, and he has standing to raise his challenge to the constitutionality of New York's firearm licensing scheme, notwithstanding that he never applied to obtain a firearm license (see *People v Johnson*, — NY3d —, 2025, NY Slip Op 06528, *2 [2025]).

However, defendant has failed to establish that the instant indictment is unconstitutional under *New York State Rifle & Pistol Assn., Inc. v Bruen*, (597 US 1 [2022]) (see e.g. *Johnson*, 2025 NY Slip Op 05628, *2).

To the extent that defendant also challenges New York's prohibition on individuals under 21 years old from obtaining a firearms license (see Penal Law § 400.00[1][a]), that claim is unpreserved for his failure to advance the same in his motion seeking to dismiss the indictment (see *People v Maldonado*, 242 AD3d 419, 420 [1st Dept 2025], lv denied 44 NY3d 1053 [2025]; see also *People v Cabrera*, 41 NY3d 35, 42-51 [2023]), and we decline to review it in the interest of justice.

As an alternative holding, we find that this argument is unavailing (see e.g. *People v Tarazona*, 239 AD3d 544, 545 [1st Dept 2025], lv denied 44 NY3d 1013 [2025]). Based on our own interest of justice powers, we vacate the surcharge and fees imposed on defendant at sentencing (see *People v Johnson*, 231 AD3d 679, 679-680 [1st Dept 2024], lv denied 42 NY3d 1053 [2024]).

We note that the People do not oppose this relief. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.
ENTERED: March 26, 2026

