

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

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suppression of evidence

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PRACTICE AREAS

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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]

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