

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

People v. Fisher

Fisher, 2026 NY Slip Op 02077 (Appellate Division of the Supreme Court of the State of New York First Department 2026) · No. Ind. No. 70375/23; Appeal No. 6290; Case No. 2024-04043 · Decided April 7, 2026

SUMMARY

The Appellate Division, First Department unanimously affirmed Tyee Fisher's judgment of conviction and sentence following his guilty plea to attempted criminal possession of a weapon in the third degree. The court held that Fisher's Second Amendment challenges to New York's revised gun licensing scheme were unpreserved and, alternatively, unavailing.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Scarpulla, J.P.; Friedman, J.; Shulman, J.; Rodriguez, J.; Rosado, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	April 7, 2026
DOCKET	Ind. No. 70375/23; Appeal No. 6290; Case No. 2024-04043
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Supreme Court, Bronx County, convicting him upon his guilty plea and sentencing him as a second violent felony offender.
STANDARD OF REVIEW	The court reviewed preservation of defendant's constitutional claims and, alternatively, their merits; it declined interest-of-justice review of the unpreserved claims.
PRECEDENTIAL VALUE	Published intermediate appellate decision
PARTIES	Tyee Fisher v. The People of the State of New York

TOPICS

second amendment

preservation of error

appellate procedure

criminal procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether defendant preserved his Second Amendment challenges to New York's revised gun licensing scheme by raising the specific vagueness and historical-analogue arguments in his motion to dismiss the indictment.
2. Whether the court should review the unpreserved Second Amendment challenges in the interest of justice.
3. Whether defendant's Second Amendment challenges were meritorious despite the preservation defect.

HOLDINGS

1. The Second Amendment challenges were unpreserved because defendant did not argue in his motion to dismiss the indictment that the good-moral-character provision was vague and discretionary or that New York's lifetime firearms ban lacked a historical analogue.
2. The court declined to review defendant's unpreserved Second Amendment challenges in the interest of justice.
3. Alternatively, the court found defendant's Second Amendment challenges unavailing.

KEY QUOTATIONS

*"Defendant's Second Amendment challenges to New York's revised gun licensing scheme are unpreserved because he failed to argue in his motion to dismiss the indictment that the "good moral character" provision is "vague and discretionary," or that there is "no historical analogue" to New York's lifetime firearms ban for any person previously convicted of a crime" ([*1])*

FACTUAL BACKGROUND

Tyee Fisher pleaded guilty to attempted criminal possession of a weapon in the third degree. He was sentenced as a second violent felony offender to three years' imprisonment and challenged New York's revised gun licensing scheme under the Second Amendment, including its good-moral-character provision and lifetime firearms ban for persons previously convicted of a crime.

PROCEDURAL HISTORY

The Supreme Court, Bronx County, rendered judgment on March 6, 2024, after defendant pleaded guilty to attempted criminal possession of a weapon in the third degree and received a three-year sentence as a second violent felony offender. The Appellate Division, First Department, unanimously affirmed.

DISPOSITION

affirmed

CASES CITED

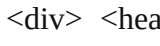
- People v. Cabrera, 41 N.Y.3d 35, 42-51 (2023)

OPINION

PER CURIAM.

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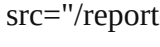
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2026 NY Slip Op 02077

April 7, 2026

Appellate Division, First Department

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This decision is uncorrected and subject to revision before publication in the Official Reports.

The People of the State of New York, Respondent,

v

Tyee Fisher, Appellant.

Decided and Entered: April 07, 2026

Ind.

No. 70375/23|Appeal No. 6290|Case No. 2024-04043|

Before: Scarpulla, J.P., Friedman, Shulman, Rodriguez, Rosado, JJ.

Jenay Nurse Guilford, Center for Appellate Litigation, New York (Leanna J. Duncan of counsel), for appellant.

Darcel D. Clark, District Attorney, Bronx (Mary McGarvey-DePuy of counsel), for respondent.

[*1]

Judgment, Supreme Court, Bronx County (Steven J. Hornstein, J.), rendered March 6, 2024, convicting defendant, upon his plea of guilty, of attempted criminal possession of a weapon in the third degree, and sentencing him, as a second violent felony offender, to a term of three years, unanimously affirmed.

Defendant's Second Amendment challenges to New York's revised gun licensing scheme are unpreserved because he failed to argue in his motion to dismiss the indictment that the "good moral character" provision is "vague and discretionary," or that there is "no historical analogue" to New York's lifetime firearms ban for any person previously convicted of a crime (*see People v Cabrera*, 41 NY3d 35, 42-51 [2023]), and we decline to review them in the interest of justice.

As an alternative holding, we find them unavailing.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: April 7, 2026

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