

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

People v. Freeman

2025 N.Y. Slip Op. 06928 (N.Y. Ct. App. 2025) · No. CR-22-2106 · Decided December 11, 2025

SUMMARY

The New York Appellate Division, Third Department, affirmed Michael C. Freeman's judgment of conviction for first-degree burglary following his guilty plea. The court held that his challenge to the voluntariness of the plea based on cognitive limitations was unpreserved and, alternatively, unsupported by the record.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Clark, J.P.; Reynolds Fitzgerald, J.; Lynch, J.; Ceresia, J.; Powers, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	December 11, 2025
DOCKET	CR-22-2106
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a Madison County Supreme Court judgment convicting him upon his guilty plea to first-degree burglary and sentencing him to the minimum possible prison term of five years followed by five years of postrelease supervision.
STANDARD OF REVIEW	The court reviewed preservation of the plea-voluntariness claim for compliance with the postallocution-motion requirement and reviewed the record for the narrow exception to that requirement. It alternatively considered whether the record demonstrated that defendant's cognitive limitations prevented him from understanding the proceedings or voluntarily entering the plea.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Michael C. Freeman v. The People of the State of New York

TOPICS

criminal procedure

preservation of error

appellate procedure

plea bargaining

PRACTICE AREAS

criminal procedure

appellate procedure

guilty pleas

QUESTIONS PRESENTED

1. Whether defendant preserved his challenge to the knowing, voluntary, and intelligent nature of his guilty plea by making the required postallocution motion before sentencing.
2. Whether the record triggered the narrow exception to the preservation requirement.
3. Whether defendant's cognitive limitations rendered him incapable of understanding the proceedings or voluntarily entering his guilty plea.
4. Whether the validity of defendant's appeal waiver barred review of his plea-voluntariness claim.

HOLDINGS

1. A challenge to the voluntariness of a guilty plea is unpreserved when the defendant fails to make an appropriate postallocution motion despite an opportunity to do so before sentencing.
2. The record did not establish that defendant's cognitive limitations rendered him incapable of understanding the proceedings or voluntarily entering his guilty plea.
3. A challenge to the voluntariness of a guilty plea survives even a valid waiver of the right to appeal.

KEY QUOTATIONS

“nothing in the record or [defendant's] participation in the proceedings suggests that his . . . cognitive limitations rendered him incapable of understanding the proceedings or voluntarily entering a guilty plea”
([*1])

FACTUAL BACKGROUND

In satisfaction of a seven-count indictment, Michael C. Freeman pleaded guilty to first-degree burglary. Supreme Court considered a mitigation report, defendant's honesty, and his cooperation with police, then imposed five years in prison followed by five years of postrelease supervision. On appeal, Freeman claimed that cognitive limitations prevented his plea from being knowingly, voluntarily, and intelligently entered.

PROCEDURAL HISTORY

Defendant was charged in a seven-count indictment and pleaded guilty to first-degree burglary in satisfaction of the indictment. Supreme Court rendered judgment on October 17, 2022, and defendant appealed, arguing that cognitive limitations rendered his plea involuntary. The Appellate Division held the claim unpreserved and, alternatively, rejected it on the merits, affirming the judgment.

DISPOSITION

affirmed

CASES CITED

- People v. Byrd, 239 A.D.3d 1146, 1147 (3d Dep't 2025)
- People v. Dungey, 216 A.D.3d 1367, 1368 (3d Dep't 2023), leave to appeal denied, 40 N.Y.3d 928 (2023)
- People v. Kinner, 147 A.D.2d 742, 743 (3d Dep't 1989), leave to appeal denied, 74 N.Y.2d 665 (1989)
- People v. Lopez, 6 N.Y.3d 248, 255 (2006)
- People v. Lewis, 234 A.D.3d 1209, 1210 (3d Dep't 2025), leave to appeal denied, 43 N.Y.3d 1009 (2025)

OPINION

PER CURIAM.

People v Freeman (2025 NY Slip Op 06928) People v Freeman 2025 NY Slip Op 06928 Decided on December 11, 2025 Appellate Division, Third 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:December 11, 2025 CR-22-2106 [*1]The People of the State of New York, Respondent, v Michael C. Freeman, Appellant.

Calendar Date:November 13, 2025 Before:Clark, J.P., Reynolds Fitzgerald, Lynch, Ceresia and Powers, JJ. Steven G. Cox, Utica, for appellant. Robert A. Mascari, Acting District Attorney, Wampsville (J. Sam Rodgers of counsel), for respondent. Clark, J.P. Appeal from a judgment of the Supreme Court (Patrick O'Sullivan, J.), rendered October 17, 2022 in Madison County, convicting defendant upon his plea of guilty of the crime of burglary in the first degree.

In satisfaction of a seven-count indictment, defendant pleaded guilty to burglary in the first degree and purportedly waived his right to appeal. Appropriately accounting for the sympathetic circumstances reflected in a mitigation report prepared on defendant's behalf, as well as his "honesty" and cooperation with police, Supreme Court determined that the minimum possible prison term of five years, to be followed by five years of postrelease supervision, was warranted and sentenced defendant accordingly.

Defendant appeals. Defendant asserts that the plea was not knowingly, voluntarily and intelligently entered given his cognitive limitations. [FN1] This contention, however, is unpreserved for our review, as defendant did not make an appropriate postallocution motion despite an opportunity to do so prior to sentencing, and a review of the record does not reflect that the narrow exception to the preservation requirement was triggered (see People v Byrd, 239 AD3d 1146, 1147 [3d Dept 2025]; People v Dungey, 216 AD3d 1367, 1368 [3d Dept 2023], lv denied 40 NY3d 928 [2023]).

In any event, were we to address the issue, we would find it to be unavailing, as "nothing in the record or [defendant's] participation in the proceedings suggests that his... cognitive limitations

rendered him incapable of understanding the proceedings or voluntarily entering a guilty plea" (*People v Dungey*, 216 AD3d at 1368; see *People v Kinner*, 147 AD2d 742, 743 [3d Dept 1989], lv denied 74 NY2d 665 [1989]).

Reynolds Fitzgerald, Lynch, Ceresia and Powers, JJ., concur. ORDERED that the judgment is affirmed. Footnotes Footnote 1: Although defendant also challenges the validity of his waiver of the right to appeal, such issue need not be addressed as the challenge to the voluntariness of the plea survives even a valid appeal waiver (see *People v Lopez*, 6 NY3d 248, 255 [2006]; *People v Lewis*, 234 AD3d 1209, 1210 [3d Dept 2025], lv denied 43 NY3d 1009 [2025]).

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