

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

People v. Lowman

2026 NY Slip Op 00326 (N.Y. Ct. App. 2026) · No. Ind. No. 1246/21; Appeal No. 5676; Case No. 2022-00851 ·  
Decided January 27, 2026

SUMMARY

The Appellate Division, First Department unanimously affirmed Benjamin Lowman's conviction and sentence for aggravated driving while intoxicated as a felony. The court held that his challenge to the plea allocation and the lack of arraignment on the special information was unpreserved, declined interest-of-justice review, and alternatively rejected the challenge on the merits.

CASE DETAILS

|                       |                                                                                                                                                                                                                                               |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of New York, Appellate Division, First Department                                                                                                                                                                  |
| WRITING FOR THE COURT | Webber, J.P.; Gesmer, J.; Higgitt, J.; Michael, J.; Chan, J.                                                                                                                                                                                  |
| JURISDICTION          | New York Supreme Court, Appellate Division, First Department                                                                                                                                                                                  |
| DECIDED               | January 27, 2026                                                                                                                                                                                                                              |
| DOCKET                | Ind. No. 1246/21; Appeal No. 5676; Case No. 2022-00851                                                                                                                                                                                        |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | Defendant appealed from a judgment of Supreme Court, New York County, convicting him upon his guilty plea of aggravated driving while intoxicated as a felony and sentencing him to five days in jail and a three-year conditional discharge. |
| STANDARD OF REVIEW    | Unpreserved claim reviewed, if at all, in the interest of justice; plea-validity claim alternatively reviewed on the merits.                                                                                                                  |
| PRECEDENTIAL VALUE    | Published New York Appellate Division opinion; precedential within the First Department subject to subsequent appellate treatment.                                                                                                            |
| PARTIES               | Benjamin Lowman, Defendant-Appellant v. The People of the State of New York, Respondent                                                                                                                                                       |

TOPICS

- criminal procedure
- plea bargaining
- preservation of error
- appellate procedure

## PRACTICE AREAS

criminal law

criminal procedure

DWI/DUI

## QUESTIONS PRESENTED

1. Whether defendant's challenge to the validity of his guilty plea was preserved where the trial court did not allocute him on the predicate conviction or arraign him on the special information.
2. Whether the guilty plea was invalid because the court did not address the predicate conviction during the plea colloquy.
3. Whether the trial court was required to arraign defendant on the special information in the context of a guilty plea.

## HOLDINGS

1. Defendant's contention that his guilty plea was invalid because the court failed to address the predicate conviction and failed to arraign him on the special information was unpreserved, and the court declined to review it in the interest of justice.
2. The guilty plea was knowing, intelligent, and voluntary even though the court did not address defendant's predicate offense during the plea colloquy.
3. The trial court was not required to arraign defendant on the special information because CPL 200.60(3) is, by its terms, inapplicable in the context of a guilty plea.

## KEY QUOTATIONS

*“is by its terms inapplicable in the context of a guilty plea”* (226 AD3d at 489)

## FACTUAL BACKGROUND

Benjamin Lowman pleaded guilty to aggravated driving while intoxicated as a felony based on a prior conviction. During the plea colloquy, the court did not specifically address the predicate offense and did not arraign defendant on the special information. The special information accompanying the indictment identified the prior conviction and sufficiently informed defendant that he was pleading guilty to an elevated felony charge.

## PROCEDURAL HISTORY

The Supreme Court, New York County, rendered judgment on February 22, 2022, after defendant pleaded guilty to operating a motor vehicle while under the influence of alcohol or drugs under Vehicle and Traffic Law § 1192(2-a). The prior conviction elevated the charge to a felony. On appeal, defendant argued that his plea was invalid because the court did not allocute him regarding the predicate conviction or arraign him on the special information. The Appellate Division held the claim unpreserved, declined interest-of-justice review, rejected the claim alternatively on the merits, and unanimously affirmed.

## DISPOSITION

affirmed

#### CASES CITED

- People v. Gibson, 226 AD3d 488 (1st Dep't 2024)
- People v. Mayes, 226 AD3d 460 (1st Dep't 2024), lv denied, 42 NY3d 928 (2024)
- People v. Sanchez, 55 AD3d 460, 460 (1st Dep't 2008), lv denied, 11 NY3d 930 (2009)

#### OPINION

##### PER CURIAM.

People v Lowman ( 2026 NY Slip Op 00326 ) People v Lowman 2026 NY Slip Op 00326 Decided on January 27, 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: January 27, 2026 Before: Webber, J.P., Gesmer, Higgitt, Michael, Chan, JJ. Ind. No. 1246/21|Appeal No. 5676|Case No. 2022-00851| [\*1]The People of the State of New York, Respondent, v Benjamin Lowman, Defendant-Appellant.

Twyla Carter, The Legal Aid Society, New York (Sylvia Lara Altreuter of counsel), for appellant. Alvin L. Bragg, Jr., District Attorney, New York (Conor E. Byrnes of counsel), for respondent. Judgment, Supreme Court, New York County (Diane Kiesel, J.), rendered February 22, 2022, convicting defendant, upon his plea of guilty, of operating a motor vehicle while under the influence of alcohol or drugs (Vehicle and Traffic Law § 1192[2-a]), and sentencing him to a jail term of five days and a three-year conditional discharge, unanimously affirmed.

Defendant's contention that his plea was invalid because the court did not allocute him on his prior conviction, which elevated the charge to which he pleaded guilty to a felony ( see Vehicle and Traffic Law §§ 1192[2-a][a], 1193[1][c]), during his plea, and did not arraign him on the special information is unpreserved, and we decline to review it in the interest of justice ( see People v Gibson, 226 AD3d 488 [1st Dept 2024]).

As an alternative holding, we reject it on the merits. The record establishes that defendant's plea was knowing, intelligent, and voluntary. Although the court did not address defendant's predicate offense during the plea colloquy, the special information accompanying the indictment sufficiently apprised defendant that he was pleading guilty to an elevated felony charge under Vehicle and Traffic Law § 1193(1)(c)(i)(A) based on his prior conviction ( see People v Mayes, 226 AD3d 460 [1st Dept 2024], lv denied, 42 NY3d 928 [2024]).

Furthermore, defendant was informed that he was pleading guilty to aggravated driving while intoxicated as a felony at multiple junctures by the court, and nothing in the plea allocution casts

significant doubt on his guilt ( see *People v Sanchez*, 55 AD3d 460, 460 [1st Dept 2008], lv denied 11 NY3d 930 [2009]).

The court was not required to arraign defendant on the special information, as CPL 200.60(3) "is by its terms inapplicable in the context of a guilty plea" ( *Gibson*, 226 AD3d at 489 [internal quotation marks omitted]). THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: January 27, 2026