

**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 allocution and the lack of arraignment on the special information was unpreserved, declined interest-of-justice review, and alternatively rejected the challenge on the merits.

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