

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

People v. Fragoso

Fragoso, 2026 NY Slip Op 03822 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2026) · No. 2025-05757 · Decided June 17, 2026

SUMMARY

The Appellate Division, Second Department granted assigned counsel's motion to withdraw under *Anders v. California* after finding that counsel's brief was deficient because it failed to adequately analyze potential appellate issues with supporting legal authority and record references. The court assigned new counsel to represent Dennys Fragoso in his appeal from a judgment convicting him, upon his guilty plea, of first-degree manslaughter.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Colleen D. Duffy, J.P.; Linda Christopher, J.; Carl J. Landicino, J.; Laurence L. Love, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	June 17, 2026
DOCKET	2025-05757
DISPOSITION	other
PROCEDURAL POSTURE	Defendant appealed from a judgment convicting him, upon his guilty plea, of manslaughter in the first degree and imposing sentence. Assigned appellate counsel filed an <i>Anders</i> brief and moved to withdraw.
STANDARD OF REVIEW	The Appellate Division independently reviewed whether assigned counsel had conducted and presented a diligent and thorough search of the record for any nonfrivolous appellate issue, as required by <i>Anders v. California</i> .
PRECEDENTIAL VALUE	Published opinion; precedential value under New York law not otherwise specified in the opinion.

PARTIES

Dennys Fragoso v. The People of the State of New York

TOPICS

appellate procedure

right to counsel

criminal procedure

PRACTICE AREAS

criminal appellate procedure

appointed appellate counsel

Anders withdrawal motions

QUESTIONS PRESENTED

1. Whether assigned appellate counsel's Anders brief demonstrated a diligent and thorough search of the record for any arguable appellate issue.
2. Whether counsel's deficient Anders brief required the court to assign new appellate counsel.

HOLDINGS

1. An Anders brief is inadequate when it fails to analyze potential appellate issues with reference to relevant legal authority and facts in the record, including significant objections, applications, or motions.
2. When assigned counsel files a deficient Anders brief that does not demonstrate compliance with Anders, the court must assign new counsel to represent the appellant.

KEY QUOTATIONS

*“In reviewing an attorney's motion to be relieved pursuant to Anders v California (386 US 738), this Court must first satisfy itself that the attorney has provided the client with a diligent and thorough search of the record for any arguable claim that might support the client's appeal” (*1)*

*“Counsel cannot merely recite the underlying facts and state a bare conclusion that, after reviewing the record and discussing the case with the client, it is the writer's opinion that there are no nonfrivolous issues to be raised on appeal” (*2)*

*“Since the brief does not demonstrate that assigned counsel has fulfilled his obligations under Anders v California , we must assign new counsel to represent the appellant” (*2)*

FACTUAL BACKGROUND

The defendant was convicted of manslaughter in the first degree after pleading guilty in Nassau County Court. Assigned appellate counsel submitted an Anders brief asserting that no nonfrivolous issues existed and sought permission to withdraw. The Appellate Division concluded that the brief failed to analyze potential appellate issues using relevant legal authority and record facts.

PROCEDURAL HISTORY

The Nassau County Court rendered judgment on November 13, 2024. On appeal, assigned counsel moved for leave to withdraw under Anders v. California. The Appellate Division found counsel's brief deficient, granted the

motion to withdraw, assigned new counsel, and directed the parties to submit appellate briefs.

DISPOSITION

other

REMAND INSTRUCTIONS

The withdrawing attorney was directed to turn over all papers to newly assigned counsel. Jillian S. Harrington was assigned to prosecute the appeal; the respondent was directed to provide the certified transcript; new counsel was directed to serve and file an appellant's brief within 90 days, followed by the respondent's brief within 30 days.

CASES CITED

- Anders v. California, 386 U.S. 738
- People v. Burks, 247 A.D.3d 1053, 1054
- People v. Stanley, 243 A.D.3d 596, 597
- People v. Haynesworth, 240 A.D.3d 512, 513
- People v. Reyes-Fuentes, 228 A.D.3d 686, 688

OPINION

People v. Fragoso 2026 NY Slip Op 03822

PER CURIAM.

People v Fragoso - 2026 NY Slip Op 03822 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions People v Fragoso 2026 NY Slip Op 03822 June 17, 2026 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This decision is uncorrected and subject to revision before publication in the Official Reports. The People of the State of New York, respondent, v Dennys Fragoso, appellant. Supreme Court of the State of New York, Appellate Division, Second Judicial Department Decided on June 17, 2026 2025-05757, (Ind. No. 70107/23) Colleen D. Duffy, J.P. Linda Christopher Carl J. Landicino Laurence L. Love, JJ. Martin Geoffrey Goldberg, Franklin Square, NY, for appellant. Anne T. Donnelly, District Attorney, Mineola, NY (Autumn S. Hughes and Jared A. Chester of counsel), for respondent. [*1] DECISION & ORDER Appeal by the defendant from a judgment of the County Court, Nassau County (Robert A. Schwartz, J.), rendered November 13, 2024, convicting him of manslaughter in the first degree, upon his plea of guilty, and imposing sentence. Assigned counsel has submitted a brief in accordance with Anders v California (386 US 738), in which he moves for leave to withdraw as counsel for the appellant. ORDERED that the motion of Martin Geoffrey Goldberg for leave to withdraw as counsel for the appellant is granted, and he is directed to turn

over all papers in his possession to a new counsel as assigned herein; and it is further, ORDERED that Jillian S. Harrington, P.O. Box 131621, Staten Island, NY, 10313, is assigned as counsel to prosecute the appeal; and it is further, ORDERED that the respondent is directed to furnish a copy of the certified transcript of the proceedings to the appellant's new assigned counsel; and it is further, ORDERED that the new counsel shall serve and file a brief on behalf of the appellant within 90 days of this decision and order on motion, and the respondent shall serve and file its brief within 30 days after the brief on behalf of the appellant is served and filed. By prior decision and order on motion of this Court dated June 23, 2025, pursuant to CPL 380.55(2), this Court directed that the appeal be heard on the original papers, including a certified transcript of the proceedings, and on the briefs on the parties. The parties are directed to upload, through the digital portal on this Court's website, digital copies of their respective briefs, with proof of service of one hard copy on each other (see 22 NYCRR 670.9[a]). In reviewing an attorney's motion to be relieved pursuant to *Anders v California* (386 US 738), this Court must first satisfy itself that the attorney has provided the client with a diligent and thorough search of the record for any arguable claim that might support the client's appeal (see *People v Burks* , 247 AD3d 1053 , 1054). To be adequate, assigned counsel's brief must discuss relevant evidence, with specific references to the record; identify and assess the efficacy of any significant objections, applications, or motions; and identify possible issues for appeal, with [*2] references to the facts of the case and relevant legal authority (see *People v Stanley* , 243 AD3d 596 , 597). Counsel cannot merely recite the underlying facts and state a bare conclusion that, after reviewing the record and discussing the case with the client, it is the writer's opinion that there are no nonfrivolous issues to be raised on appeal (see *People v Burks* , 247 AD3d at 1054). Where counsel has failed in their role as advocate by filing a deficient brief, on this basis alone, new counsel will be assigned to represent the appellant on the appeal (see *id.*). Here, the brief submitted by assigned counsel pursuant to *Anders v California* is deficient because it fails to analyze potential appellate issues with reference to legal authority or highlight facts in the record that might arguably support the appeal (see *People v Haynesworth* , 240 AD3d 512 , 513; *People v Reyes-Fuentes* , 228 AD3d 686 , 688). With regard to those issues identified in the brief that could be raised on the defendant's behalf, the analysis lacks supporting legal authority (see *People v Haynesworth* , 240 AD3d at 513). Since the brief does not demonstrate that assigned counsel has fulfilled his obligations under *Anders v California* , we must assign new counsel to represent the appellant (see *People v Burks* , 247 AD3d at 1054-1055). DUFFY, J.P., CHRISTOPHER, LANDICINO and LOVE, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.

