

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