

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

People v. E.R.

2026 NY Slip Op 00845 (Supreme Court of the State of New York Appellate Division First Department 2026) ·
No. Ind. No. 1478/19, 70235/24; Appeal Nos. 5854-5855; Case Nos. 2023-00303, 2024-06946 · Decided
February 17, 2026

SUMMARY

The New York Appellate Division, First Department dismissed as moot the defendant's appeals from two criminal judgments. The court explained that a prior decision had modified the sentence imposed under the earlier indictment, eliminating the live controversy.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Moulton, J.P.; Friedman, J.; González, J.; O'Neill Levy, J.; Chan, J.
JURISDICTION	New York Appellate Division, First Department
DECIDED	February 17, 2026
DOCKET	Ind. No. 1478/19, 70235/24; Appeal Nos. 5854-5855; Case Nos. 2023-00303, 2024-06946
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant appealed from two criminal judgments entered in Supreme Court, Bronx County, after guilty pleas.
PRECEDENTIAL VALUE	Published
PARTIES	E.R. v. The People of the State of New York

TOPICS

- mootness
- appellate procedure
- criminal procedure
- sentencing

PRACTICE AREAS

- criminal procedure
- appellate practice
- sentencing

QUESTIONS PRESENTED

1. Whether the appeals from the two criminal judgments should be dismissed as moot in light of the court's prior modification of the sentence under the first indictment.

HOLDINGS

1. The appeals were dismissed as moot because the court's prior decision had modified the December 10, 2024 resentence under indictment No. 1478/19 by reducing the imprisonment term to one year.

KEY QUOTATIONS

*“In light of our determination in People v E.R. (242 AD3d 645 [1st Dept 2025]), which modified the December 10, 2024 judgment of resentence under indictment No. 1478/19, to the extent of reducing the sentence of imprisonment to a term of one year, the present appeals are dismissed as moot.” ([*1])*

FACTUAL BACKGROUND

The appeals arose from two criminal judgments entered after defendant's guilty pleas. The first involved a weapon-possession conviction and a five-year probation sentence with youthful-offender adjudication; the second involved controlled-substance and weapon-possession convictions and an aggregate two-year sentence. The court relied on its prior decision modifying the resentence in the first case to reduce the imprisonment term to one year.

PROCEDURAL HISTORY

The first judgment, rendered January 9, 2023, followed defendant's guilty plea to criminal possession of a weapon in the third degree and resulted in youthful-offender adjudication and five years of probation. The second judgment, rendered November 1, 2024, followed guilty pleas to criminal possession of a controlled substance in the seventh degree and attempted criminal possession of a weapon in the second degree and resulted in an aggregate two-year sentence. The Appellate Division dismissed both appeals as moot because an earlier decision had modified the resentence under the first indictment by reducing the imprisonment term to one year.

DISPOSITION

dismissed

CASES CITED

- People v. E.R., 242 AD3d 645 (1st Dept. 2025)

OPINION

PER CURIAM.

People v E.R. (2026 NY Slip Op 00845) People v E.R. 2026 NY Slip Op 00845 Decided on February 17, 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: February 17, 2026
Before: Moulton, J.P., Friedman, González, O'Neill Levy, Chan, JJ. Ind. No. 1478/19,
70235/24|Appeal No. 5854-5855|Case No. 2023-00303, 2024-06946| [*1]The People of the State
of New York, Respondent, v E.R., Defendant-Appellant.

Jenay Nurse Guilford, Center for Appellate Litigation, New York (Benjamin Wiener of counsel),
for appellant. Appeals from judgment, Supreme Court, Bronx County (Steven Hornstein, J.),
rendered January 9, 2023, under indictment No. 1478/19, convicting defendant, upon his guilty
plea, of criminal possession of a weapon in the third degree, adjudicating him a youthful offender,
and sentencing him to five years of probation, and judgment, same court (Ralph Fabrizio, J.),
rendered November 1, 2024, under indictment No. 70235/24, convicting him, upon his guilty plea,
of criminal possession of a controlled substance in the seventh degree and attempted criminal
possession of a weapon in the second degree, and sentencing him to an aggregate term of two
years, unanimously dismissed, as moot.

In light of our determination in *People v E.R.* (242 AD3d 645 [1st Dept 2025]), which modified
the December 10, 2024 judgment of resentence under indictment No. 1478/19, to the extent of
reducing the sentence of imprisonment to a term of one year, the present appeals are dismissed as
moot. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT,
APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: February 17, 2026