

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

People v. Jackson

2026 NY Slip Op 02729 · No. Ind. No. 73164/23; Appeal No. 6502; Case No. 2025-00587 · Decided April 30,
2026

SUMMARY

The Appellate Division, First Department unanimously affirmed Michael T. Jackson's conviction for criminal possession of a firearm and his sentence of three years' probation. The court held that Jackson's valid waiver of the right to appeal foreclosed his excessive-sentence claim and as-applied constitutional challenges to a probation condition. It declined to review his unpreserved facial challenge to New York's gun-licensing "good moral character" provision in the interest of justice, alternatively finding the claim unavailing, and directed that his ineffective-assistance claim be raised under CPL 440.10 to the extent it depended on matters outside the record.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Kennedy, J.P.; Gesmer, J.; González, J.; Rosado, J.; Chan, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	April 30, 2026
DOCKET	Ind. No. 73164/23; Appeal No. 6502; Case No. 2025-00587
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Supreme Court, Bronx County, rendered after his guilty plea to criminal possession of a firearm and imposing three years of probation.
STANDARD OF REVIEW	The court applied waiver and preservation rules, declined to review unpreserved claims in the interest of justice, reviewed the sentence for a basis for reduction, and considered the ineffective-assistance claim to the extent reviewable on the existing record.
PRECEDENTIAL VALUE	Published and precedential within the New York Appellate Division, First Department, subject to revision before publication in the Official Reports.

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QUESTIONS PRESENTED

1. Whether defendant's valid waiver of the right to appeal foreclosed his excessive-sentence claim.
2. Whether defendant's facial challenge to New York's good-moral-character gun-licensing provision survived the appeal waiver and could be brought despite his not having applied for a gun license.
3. Whether the facial challenge was preserved and, alternatively, whether it was meritorious.
4. Whether defendant's ineffective-assistance claim was reviewable on direct appeal or had to be raised in a CPL 440.10 motion.
5. Whether defendant's as-applied constitutional challenges to probation condition 7 were foreclosed by the appeal waiver or unpreserved.

HOLDINGS

1. A valid waiver of the right to appeal foreclosed review of defendant's excessive-sentence claim; alternatively, the court found no basis to reduce the sentence.
2. The facial constitutional challenge survived defendant's appeal waiver, and defendant had standing to assert it despite never having applied for a gun license; however, the claim was unpreserved and was not reviewed in the interest of justice, and it was alternatively rejected as unavailing.
3. An ineffective-assistance claim based on matters outside the existing record must first be raised in a CPL 440.10 motion; to the extent the record permitted direct review, defendant failed to establish ineffective assistance.
4. Defendant's as-applied constitutional challenges to probation condition 7 were foreclosed by his valid appeal waiver and were also unpreserved; the court declined interest-of-justice review.

KEY QUOTATIONS

*"Defendant's facial challenge to the "good moral character" provision of New York's gun licensing scheme survives his waiver of the right to appeal, and he has standing to bring it despite his never having applied for a gun license" (*1)*

*"Avoid injurious or vicious habits; refrain from frequenting unlawful or disreputable places; and do not consort with disreputable people" (*1)*

FACTUAL BACKGROUND

Defendant pleaded guilty to criminal possession of a firearm and received a sentence of three years of probation. His appeal challenged the sentence, the facial validity of New York's good-moral-character gun-licensing provision, trial counsel's failure to raise that challenge, and probation condition 7, which restricted injurious or vicious habits, visits to unlawful or disreputable places, and association with disreputable people.

PROCEDURAL HISTORY

The Supreme Court, Bronx County, entered judgment on December 18, 2024, after defendant pleaded guilty to criminal possession of a firearm and sentenced him to three years of probation. The Appellate Division unanimously affirmed, holding that defendant validly waived appellate review of several claims, that other claims were unpreserved, and that the remaining claims lacked merit or were not reviewable on the existing record.

DISPOSITION

affirmed

CASES CITED

- People v. Thomas, 34 NY3d 545, 559 (2019), cert. denied, 589 U.S. 1302 (2020)
- People v. Lowndes, 239 AD3d 574, 575 (1st Dept. 2025), lv. denied, 44 NY3d 1012 (2025)
- People v. Johnson, 2025 NY Slip Op 06528, *2 (2025)
- People v. Martinez, 238 AD3d 423, 424 (1st Dept. 2025), lv. denied, 44 NY3d 1067 (2026)
- People v. Martinez, 231 AD3d 448, 449 (1st Dept. 2024), lv. denied, 42 NY3d 1081 (2025)
- People v. Caban, 5 NY3d 143, 152 (2005)

OPINION

PER CURIAM.

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Respondent,

Michael T. Jackson, Defendant-Appellant.

Decided and Entered: April 30, 2026

Ind No. 73164/23|Appeal No. 6502|Case No. 2025-00587|

Before: Kennedy, J.P., Gesmer, González, Rosado, Chan, JJ.

Jenay Nurse Guilford, Center for Appellate Litigation, New York (Leanna J. Duncan of counsel), for appellant.

Darcel D. Clark, District Attorney, Bronx (Joseph P. Tucker of counsel), for respondent.

Judgment, Supreme Court, Bronx County (Steven J. Hornstein, J.), rendered December 18, 2024, convicting defendant, upon his plea of guilty, of criminal possession of a firearm, and sentencing him to 3 years of probation, unanimously affirmed.

Defendant validly waived his right to appeal (*see People v Thomas*, 34 NY3d 545, 559 [2019], *cert denied* 589 US 1302 [2020]), which forecloses review of his excessive sentence claim (*see People v Lowndes*, 239 AD3d 574, 575 [1st Dept 2025], *lv denied* 44 NY3d 1012 [2025]).

As an alternative holding, we perceive no basis to reduce his sentence.

Defendant's facial challenge to the "good moral character" provision of New York's gun licensing scheme survives his waiver of the right to appeal, and he has standing to bring it despite his never having applied for a gun license (*see People v Johnson*, — NY3d —, 2025 NY Slip Op 06528, *2 [2025]).

However, the contention is unpreserved and we decline to review it in the interest of justice (*id.*) Alternatively, we find the claim unavailing (*see* *People v Martinez*, 238 AD3d 423, 424 [1st Dept 2025], *lv denied* 44 NY3d 1067 [2026]).

Defendant's ineffective assistance claim based on trial counsel's failure to raise his good moral character argument is not reviewable because it involves matters not reflected in the record and thus must first be raised in a CPL 440.10 motion (*see People v Martinez*, 231 AD3d 448, 449 [1st Dept 2024], *lv denied* 42 NY3d 1081 [2025]).

To the extent the record permits review, we find that defendant has failed to establish that counsel was ineffective (*see* *People v Caban*, 5 NY3d 143, 152 [2005]).

Defendant's as-applied constitutional challenges to condition 7 of his probation, which requires him to "[a]void injurious or vicious habits; refrain from frequenting unlawful or disreputable places; and do not consort with disreputable people" are foreclosed by his valid waiver of the right to appeal (*see Lowndes*, 239 AD3d at 575).

They are also unpreserved, and we decline to review them in the interest of justice (*id.*).

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

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PER CURIAM.

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This decision is uncorrected and subject to revision before publication in the Official Reports. The People of the State of New York, Respondent, v Michael T. Jackson, Defendant-Appellant. Decided and Entered: April 30, 2026 Ind No. 73164/23|Appeal No. 6502|Case No. 2025-00587| Before: Kennedy, J.P., Gesmer, González, Rosado, Chan, JJ. Jenay Nurse Guilford, Center for Appellate Litigation, New York (Leanna J. Duncan of counsel), for appellant.

Darcel D. Clark, District Attorney, Bronx (Joseph P. Tucker of counsel), for respondent. [*1] Judgment, Supreme Court, Bronx County (Steven J. Hornstein, J.), rendered December 18, 2024, convicting defendant, upon his plea of guilty, of criminal possession of a firearm, and sentencing

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To the extent the record permits review, we find that defendant has failed to establish that counsel was ineffective (see *People v Caban*, 5 NY3d 143, 152 [2005]). Defendant's as-applied constitutional challenges to condition 7 of his probation, which requires him to "[a]void injurious or vicious habits; refrain from frequenting unlawful or disreputable places; and do not consort with disreputable people" are foreclosed by his valid waiver of the right to appeal (see *Lowndes*, 239 AD3d at 575).

They are also unpreserved, and we decline to review them in the interest of justice (*id.*). THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: April 30, 2026 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.