

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

People v. Cipriani

Cipriani, 2025 NY Slip Op 06759 (Supreme Court of the State of New York Appellate Division Third
Department 2025) · No. 112295 · Decided December 4, 2025

SUMMARY

The New York Appellate Division, Third Department, affirmed Timothy Cipriani’s convictions for third-degree burglary, fourth-degree criminal mischief, and attempted petit larceny. The court held that the verdict was supported by the weight of the evidence, including surveillance footage, mixed DNA evidence from a glove found at the crime scene, and weaknesses in the defendant’s alibi. The court also upheld the admission of rebuttal testimony concerning the defendant’s whereabouts and declined to reduce his persistent felony offender sentence.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Department
WRITING FOR THE COURT	Clark, J.; Garry, P.J.; Aarons, J.; Lynch, J.; Powers, J.
JURISDICTION	New York Supreme Court, Appellate Division, Third Department
DECIDED	December 4, 2025
DOCKET	112295
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Schenectady County Court entered after a jury convicted him of burglary in the third degree, criminal mischief in the fourth degree, and attempted petit larceny.
STANDARD OF REVIEW	Legal sufficiency is reviewed to determine whether the evidence, viewed most favorably to the People, established every element beyond a reasonable doubt, but the legal sufficiency claim was unpreserved because defendant did not renew his trial order-of-dismissal motion after presenting his case. On weight-of-the-evidence review, the court first determines whether a different verdict would have been unreasonable, then weighs the probative force of conflicting evidence and inferences in a neutral light while according deference to the jury's credibility determinations. For circumstantial evidence, the

court asks whether guilt is the only reasonable inference and whether the evidence excludes every reasonable hypothesis of innocence beyond a reasonable doubt. The sentence was reviewed for whether it was unduly harsh or severe and, alternatively, for interest-of-justice reduction.

PRECEDENTIAL VALUE

Published New York Appellate Division opinion

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Timothy Cipriani v. The People of the State of New York

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QUESTIONS PRESENTED

1. Whether the verdict was legally sufficient and supported by the weight of the evidence, particularly as to defendant's identity as the perpetrator.
2. Whether County Court properly permitted the People to present the defendant's parole officer's testimony in rebuttal to challenge the alibi defense.
3. Whether the rebuttal testimony raised an impermissible Molineux issue or was too speculative to be probative.
4. Whether defendant's persistent-felony-offender sentence of 15 years to life was unduly harsh or severe or should be reduced in the interest of justice.

HOLDINGS

1. Defendant's legal sufficiency challenge was unpreserved because, although he moved for a trial order of dismissal at the close of the People's case and made the same specific argument, he did not renew the motion after presenting his defense.
2. The convictions were supported by the weight of the evidence because the jury could reasonably find that defendant was the burglar based on the surveillance footage, the DNA evidence linking him as the major contributor to the glove found beneath the point of entry, and weaknesses in his alibi.
3. County Court properly permitted the People to call defendant's parole officer in rebuttal because the testimony challenged the validity of defendant's alibi and concerned the material, central issue of defendant's whereabouts when the crime occurred.
4. The rebuttal testimony was not impermissibly speculative or barred by Molineux; any Molineux concern was mitigated because County Court precluded the People from revealing that the witness was defendant's parole officer or that defendant was on parole.

5. The sentence of 15 years to life imposed on defendant as a persistent felony offender was not unduly harsh or severe, and the court declined to reduce it in the interest of justice.

KEY QUOTATIONS

*"Nevertheless, in reviewing whether the verdict is against the weight of the evidence, this Court necessarily must ensure that the People proved each element of the crime[s] beyond a reasonable doubt" (*1)*

*"When undertaking a weight of the evidence review, [this Court] must first determine whether, based on all the credible evidence, a different finding would not have been unreasonable and then, if not, weigh the relative probative force of conflicting testimony and the relative strength of conflicting inferences that may be drawn from the testimony to determine if the verdict is supported by the weight of the evidence" (*2)*

*"the inference of [defendant's] guilt is the only one that can fairly and reasonably be drawn from the facts, and that the evidence excludes beyond a reasonable doubt every reasonable hypothesis of innocence" (*4-*5)*

FACTUAL BACKGROUND

A masked person broke into Maxon's American Grill through a wall vent above a pizza oven, moved through the restaurant, attempted to remove a cash box, and fled through the vent. Police found a worn cloth work glove directly below the point of entry; mixed DNA was present on four swabbed areas, and defendant was identified as the major DNA contributor in each area, with a random-match probability of less than one in 320 billion. Defendant presented an alibi, but the jury could reject it based on credibility concerns and testimony from a state official that defendant had not reported the trip to his girlfriend's residence as required.

PROCEDURAL HISTORY

After a jury trial, defendant was convicted as charged. County Court denied defendant's CPL 330.30 motion to set aside the verdict and sentenced him as a persistent felony offender to 15 years to life for burglary, concurrent with the sentences on the remaining convictions. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Oates, 222 AD3d 1271, 1272 (3d Dept. 2023)
- People v. Mercer, 221 AD3d 1259, 1260 (3d Dept. 2023), lv denied 41 NY3d 1003 (2024)
- People v. Starnes, 206 AD3d 1133, 1135 (3d Dept. 2022), lv denied 38 NY3d 1153 (2022)
- People v. Goberdhan, 241 AD3d 992, 993 (3d Dept. 2025), lv denied ___ NY3d ___ (Oct. 15, 2025)
- People v. Ashe, 208 AD3d 1500, 1501 (3d Dept. 2022), lv denied 39 NY3d 961 (2022)
- People v. Alger, 206 AD3d 1049, 1050-1051 (3d Dept. 2022), lv denied 38 NY3d 1148 (2022)
- People v. Furman, 152 AD3d 870, 875 (3d Dept. 2017), lv denied 30 NY3d 1060 (2017)

- People v. Baque, 43 NY3d 26, 30 (2024)
- People v. Stowe, 240 AD3d 946, 949 (3d Dept. 2025)
- People v. Williams, 239 AD3d 1090, 1094 (3d Dept. 2025), lv denied 44 NY3d 985 (2025)
- People v. Regina, 19 NY2d 65, 72 (1966)
- People v. Sindoni, 178 AD3d 1128, 1130-1131 (3d Dept. 2019)
- People v. Brewington, 149 AD2d 852, 853 (3d Dept. 1989), lv denied 74 NY2d 737 (1989)
- People v. Bohn, 2025 NY Slip Op 05846, *8 (3d Dept. Oct. 23, 2025)
- People v. Bleakley, 69 NY2d 490, 495 (1987)
- People v. Coke, 238 AD3d 71, 77-78 (1st Dept. 2025)
- People v. Pandajis, 147 AD3d 1469, 1470-1471 (4th Dept. 2017), lv denied 29 NY3d 1084 (2017)
- People v. Warr, 237 AD3d 1262, 1266 (3d Dept. 2025), lv denied 43 NY3d 1059 (2025)
- People v. Galusha, 211 AD3d 1421, 1424 (3d Dept. 2022), lv denied 39 NY3d 1154 (2023)
- People v. Griffin, 122 AD3d 1068, 1069-1070 (3d Dept. 2014), lv denied 25 NY3d 1164 (2015)
- People v. Gragnano, 63 AD3d 1437, 1443 (3d Dept. 2009), lv denied 13 NY3d 939 (2010)
- People v. Brooks, 210 AD2d 800, 802-803 (3d Dept. 1994), lv denied 85 NY2d 906 (1995)
- People v. Cade, 73 NY2d 904, 905 (1989)
- People v. Harris, 57 NY2d 335, 345 (1982), cert denied 460 US 1047 (1983)
- People v. Morehouse, 202 AD3d 1370, 1371 (3d Dept. 2022), lv denied 38 NY3d 1073 (2022)
- People v. Anonymous, 275 AD2d 210, 212 (1st Dept. 2000)
- People v. Favors, 155 AD3d 1081, 1084 (3d Dept. 2017)
- People v. Pointer, 206 AD3d 1232, 1236 (3d Dept. 2022), lv denied 38 NY3d 1152 (2022)
- People v. Durham, 148 AD3d 1293, 1296 (3d Dept. 2017), lv denied 29 NY3d 1091 (2017)

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