

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

People v. Monegro

2026 NY Slip Op 02460 · No. SCI No. 70645/23; IND. No. 73093/23; Appeal Nos. 6458-6459; Case Nos. 2024-00631 and 2024-03837 · Decided April 23, 2026

SUMMARY

The Appellate Division, First Department, unanimously affirmed two judgments convicting Brandon Monegro of assault-related offenses and the sentences imposed. The court held that disorderly conduct was properly included in the Superior Court Information as a joinable lesser non-inclusory offense and found moot the defendant's request concerning a subsequent guilty plea.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Manzanet-Daniels, J.P.; Kennedy, J.; González, J.; Pitt-Burke, J.; Rosado, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, First Department
DECIDED	April 23, 2026
DOCKET	SCI No. 70645/23; IND. No. 73093/23; Appeal Nos. 6458-6459; Case Nos. 2024-00631 and 2024-03837
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from two Supreme Court, New York County judgments: one convicting him of assault in the second degree and sentencing him as a second felony offender to three years, and another convicting him upon a guilty plea of assault in the third degree and sentencing him to nine months' incarceration.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Brandon Monegro, Defendant-Appellant v. The People of the State of New York, Respondent

TOPICS

- criminal procedure
- statutory interpretation
- appellate procedure
- mootness

PRACTICE AREAS

criminal procedure

appellate procedure

New York criminal charging and Superior Court Informations

QUESTIONS PRESENTED

1. Whether disorderly conduct was properly included in the Superior Court Information as a joinable lesser non-inclusory offense alongside assault in the second degree charged in the felony complaint.
2. Whether defendant's subsequent guilty plea under indictment No. 73093/23 should be vacated conditionally if the conviction under SCI No. 70645/23 were reversed.
3. Whether the two Supreme Court judgments should be affirmed.

HOLDINGS

1. Disorderly conduct was properly included in the Superior Court Information as a joinable lesser non-inclusory offense because it and assault in the second degree were based on the same act or criminal transaction, and disorderly conduct was neither a higher-grade offense than an offense in the felony complaint nor an offense containing an additional aggravating element compared with second-degree assault.
2. The challenge to defendant's subsequent guilty plea was moot because the court affirmed the prior conviction on which the requested conditional relief depended.

KEY QUOTATIONS

"The charge of disorderly conduct was properly included in the Superior Court Information as a joinable lesser non-inclusory offense, alongside the triggering offense of assault in the second degree, which was charged in the felony complaint" ([*1])

"Both charges were "based upon the same act or upon the same criminal transaction"" ([*1])

FACTUAL BACKGROUND

The felony complaint alleged that on March 8, 2022, while on a subway, defendant struck a person about the head and face with a cane, causing bruising, swelling, redness, and substantial pain. The Superior Court Information charged assault in the second degree and disorderly conduct based on that alleged criminal act. Defendant also later pleaded guilty to assault in the third degree under a separate indictment.

PROCEDURAL HISTORY

The first judgment was rendered January 18, 2024, and amended April 10, 2024, after plea and sentencing proceedings in Supreme Court, New York County. The second judgment was rendered May 7, 2024, following defendant's guilty plea. The Appellate Division unanimously affirmed both judgments and held that defendant's contingent challenge to the second guilty plea was moot because the first conviction was affirmed.

DISPOSITION

affirmed

CASES CITED

- People v Pierce, 14 NY3d 564, 571 [2010]
- People v Fields, 242 AD3d 524, 524 [1st Dept 2025], lv denied 44 NY3d 1065 [2026]
- People v Perkins, 230 AD3d 977, 980 [1st Dept 2024]
- People v Fuggazzatto, 62 NY2d 862, 863 [1984]
- People v Jean, 186 AD3d 1175 [1st Dept 2020], lv denied 36 NY3d 929 [2020]

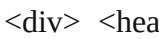
OPINION

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PER CURIAM.

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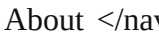
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Appellate Division, First Department

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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.

Brandon Monegro, Defendant-Appellant.

Decided and Entered: April 23, 2026

SCI No. 70645/23 IND. No. 73093/23|Appeal No. 6458-6459|Case No. 2024-00631 2024-03837|

Before: Manzanet-Daniels, J.P., Kennedy, González, Pitt-Burke, Rosado, JJ.

Jenay Nurse Guilford, Center for Appellate Litigation, New York (David K. Klem of counsel), for appellant.

Alvin L. Bragg, Jr., District Attorney, New York (Nathan Morgante of counsel), for respondent.

Judgment, Supreme Court, New York County (Laurie Peterson, J., at plea; Jonathan Svetkey, J., at sentencing), rendered January 18, 2024, as amended April 10, 2024, convicting defendant of assault in the second degree, and sentencing him, as a second felony offender, to a term of 3 years, unanimously affirmed.

Judgment, Supreme Court, New York County (Marisol M. Alonso, J.), rendered May 7, 2024, convicting defendant, upon his plea of guilty, of assault in the third degree, and sentencing him to a jail term of 9 months, unanimously affirmed.

The charge of disorderly conduct was properly included in the Superior Court Information as a joinable lesser non-inclusory offense, alongside

the triggering offense of assault in the second degree, which was charged in the felony complaint (*see* *People v Pierce*, 14 NY3d 564, 571 [2010]; *People v Fields*, 242 AD3d 524, 524 [1st Dept 2025], *lv denied* 44 NY3d 1065 [2026]). Both charges were "based upon the same act or upon the same criminal transaction" (CPL 200.20[2][a]). The felony complaint alleged that, on March 8, 2022, while on the subway, defendant struck someone "about the head and face with a cane causing bruising, swelling, redness to his face[,] and substantial pain." Accordingly, the SCI properly charged defendant with second-degree assault and disorderly conduct, basing both charges upon this same alleged criminal act. Disorderly conduct is neither "a higher-grade offense than any contained in the felony complaint," nor does it contain "an additional aggravating element" compared to second-degree assault (*People v Perkins*, 230 AD3d 977, 980 [1st Dept 2024]; *see* Penal Law §§ 120.05[2], 240.20).

Defendant's contention that his subsequent guilty plea under indictment No. 73093/23 should be vacated in the event this Court reverses his conviction under SCI No. 70645/23 (*see* *People v Fuggazzatto*, 62 NY2d 862, 863 [1984]) is rendered moot by this Court's affirmance of that prior conviction (*see* *People v Jean*, 186 AD3d 1175 [1st Dept 2020], *lv denied* 36 NY3d 929 [2020]).

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

ENTERED: April 23, 2026

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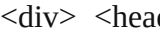
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PER CURIAM.

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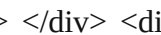
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