

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, SECOND JUDICIAL DEPARTMENT

People v. McClarin

2026 NY Slip Op 01076 · No. 2023-05891 · Decided February 25, 2026

SUMMARY

The New York Appellate Division, Second Department held that the police unlawfully impounded the defendant's vehicle and conducted an inventory search because the People failed to establish a valid impoundment policy or a community-caretaking justification. The court suppressed the physical evidence, vacated the drug and weapon convictions, dismissed those counts, and affirmed the judgment as modified.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Second Judicial Department
WRITING FOR THE COURT	Lara J. Genovesi, J.P.; William G. Ford, J.; Carl J. Landicino, J.; Susan Quirk, J.
JURISDICTION	New York Appellate Division, Second Department
DECIDED	February 25, 2026
DOCKET	2023-05891
DISPOSITION	other
PROCEDURAL POSTURE	Defendant appealed from a judgment convicting him after a nonjury trial and imposing sentence. The appeal also reviewed the denial, after a suppression hearing, of the branch of defendant's omnibus motion seeking suppression of physical evidence recovered from his vehicle.
STANDARD OF REVIEW	The Appellate Division reviewed the suppression determination and the legal sufficiency of the evidence supporting the challenged convictions.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Justin P. McClarin v. The People of the State of New York

TOPICS

- suppression of evidence
- search and seizure
- exclusionary rule
- criminal procedure
- appellate procedure

PRACTICE AREAS

criminal procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the People established that the warrantless impoundment of defendant's vehicle was lawful under inventory-search or community-caretaking principles.
2. Whether physical evidence recovered during the inventory search had to be suppressed as fruits of an unlawful impoundment.
3. Whether the challenged drug and weapon convictions could stand after suppression of the physical evidence.

HOLDINGS

1. The People failed to establish the lawfulness of the impoundment of defendant's vehicle and the subsequent inventory search.
2. The physical evidence recovered from the vehicle during the inventory search had to be suppressed as fruits of the unlawful impoundment.
3. The convictions for first-degree criminal possession of a controlled substance, third-degree criminal possession of a controlled substance, and four counts of second-degree criminal possession of a weapon had to be vacated and those counts dismissed.

KEY QUOTATIONS

*“When the driver of a vehicle is arrested, the police may impound the car, and conduct an inventory search, where they act pursuant to ‘reasonable police regulations relating to inventory procedures administered in good faith’” (*1)*

*“Accordingly, the impoundment of the defendant's vehicle was unlawful, and the physical evidence that was recovered from the vehicle during the inventory search subsequent to that impoundment must be suppressed as fruits of the unlawful impoundment” (*2)*

FACTUAL BACKGROUND

After defendant was arrested while his vehicle was pulled over on a street, police impounded the vehicle and conducted an inventory search. At the suppression hearing, the arresting officer equivocated about whether the vehicle was legally parked and did not testify about posted parking time limits. The People offered no evidence of a New York City Police Department impoundment policy, the policy's requirements, the officer's compliance with it, or a history of burglary or vandalism in the area.

PROCEDURAL HISTORY

The Supreme Court, Queens County, denied defendant's motion to suppress physical evidence following a suppression hearing, and later convicted him after a nonjury trial of multiple drug, weapon, and vehicle-related offenses. The Appellate Division held that the People failed to establish the lawfulness of the vehicle's

impoundment and inventory search, granted suppression, vacated the drug and weapon convictions and sentences, dismissed those counts, and affirmed the judgment as modified.

DISPOSITION

other

CASES CITED

- People v. Walker, 20 N.Y.3d 122, 125
- Colorado v. Bertine, 479 U.S. 367, 374
- People v. King, 188 A.D.3d 721, 722-723
- South Dakota v. Opperman, 428 U.S. 364, 368
- People v. Gomez, 13 N.Y.3d 6, 11
- People v. Weeks, 182 A.D.3d 539, 541
- People v. Tardi, 28 N.Y.3d 1077, 1078
- People v. Leonard, 119 A.D.3d 1237, 1238

OPINION

PER CURIAM.

People v McClarin (2026 NY Slip Op 01076) People v McClarin 2026 NY Slip Op 01076 Decided on February 25, 2026 Appellate Division, Second 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 on February 25, 2026 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department LARA J. GENOVESI, J.P.

WILLIAM G. FORD CARL J. LANDICINO SUSAN QUIRK, JJ. 2023-05891 (Ind. No. 71042/21) [*1]The People of the State of New York, respondent, v Justin P. McClarin, appellant. Patricia Pazner, New York, NY (Sankeerth Saradhi of counsel), for appellant. Melinda Katz, District Attorney, Kew Gardens, NY (Johnnette Traill, Charles T. Pollak, and Rahul K. Sukesh of counsel), for respondent.

DECISION & ORDER Appeal by the defendant from a judgment of the Supreme Court, Queens County (Ira H. Margulis, J.), rendered June 12, 2023, convicting him of criminal possession of a controlled substance in the first degree, criminal possession of a controlled substance in the third degree, criminal possession of a weapon in the second degree (four counts), aggravated unlicensed operation of a motor vehicle in the third degree, operating a motor vehicle without a license, operating a motor vehicle with a tinted window, operating an unregistered motor vehicle, and operating a motor vehicle without insurance, after a nonjury trial, and imposing sentence.

The appeal brings up for review the denial, after a hearing (Gia Morris, J.), of that branch of the defendant's omnibus motion which was to suppress physical evidence. ORDERED that the judgment is modified, on the law, by vacating the convictions of criminal possession of a controlled substance in the first degree, criminal possession of a controlled substance in the third degree, and criminal possession of a weapon in the second degree (four counts), vacating the sentences imposed thereon, and dismissing those counts of the indictment; as so modified, the judgment is affirmed, and that branch of the defendant's omnibus motion which was to suppress physical evidence is granted.

"When the driver of a vehicle is arrested, the police may impound the car, and conduct an inventory search, where they act pursuant to 'reasonable police regulations relating to inventory procedures administered in good faith'" (*People v Walker*, 20 NY3d 122, 125, quoting *Colorado v Bertine*, 479 US 367, 374). "The police may also impound a vehicle without a warrant '[i]n the interests of public safety and as part of what the [United States Supreme] Court has called community caretaking functions'" (*People v King*, 188 AD3d 721, 722 [internal quotation marks omitted], quoting *South Dakota v Opperman*, 428 US 364, 368).

Here, the Supreme Court should have granted that branch of the defendant's omnibus motion which was to suppress the physical evidence recovered from his vehicle. The People failed to establish the lawfulness of the impoundment of the defendant's vehicle and subsequent inventory search (see *People v Gomez*, 13 NY3d 6, 11; *People v Weeks*, 182 AD3d 539, 541).

At a suppression hearing, the arresting officer equivocated on whether or not the vehicle was parked legally on the street, and he did not testify as to the posted time limits pertaining to the parking space at which the [*2]defendant had pulled over.

Although the officer testified that he had to impound the vehicle to safeguard it at the precinct station house and "for further investigation," the People presented no evidence demonstrating any history of burglary or vandalism in the area where the defendant had pulled over the vehicle.

Thus, the People failed to establish that the impoundment of the vehicle was in the interests of public safety or part of the police's community caretaking function (see *South Dakota v Opperman*, 428 US at 368; *People v Tardi*, 28 NY3d 1077, 1078).

Moreover, the People failed to present any evidence as to whether the New York City Police Department had a policy regarding impoundment of vehicles, what that policy required, or whether the arresting officer complied with that policy when he impounded the defendant's vehicle (see *People v Tardi*, 28 NY3d at 1078; *People v Weeks*, 182 AD3d at 541; *People v Leonard*, 119 AD3d 1237, 1238).

Accordingly, the impoundment of the defendant's vehicle was unlawful, and the physical evidence that was recovered from the vehicle during the inventory search subsequent to that impoundment

must be suppressed as fruits of the unlawful impoundment (see *People v King*, 188 AD3d at 723; *People v Weeks*, 182 AD3d at 541). Without the suppressed evidence, there could not be sufficient evidence to prove the defendant's guilt beyond a reasonable doubt as to criminal possession of a controlled substance in the first degree, criminal possession of a controlled substance in the third degree, and criminal possession of a weapon in the second degree, and those counts of indictment must therefore be dismissed (see *People v King*, 188 AD3d at 723; *People v Weeks*, 182 AD3d at 541).

The defendant's remaining contentions have been rendered academic in light of our determination. GENOVESI, J.P., FORD, LANDICINO and QUIRK, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court