

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

People v. Machado-Garcia

2026 NY Slip Op 02532 (Supreme Court of the State of New York Appellate Division Fourth Judicial
Department 2026) · No. 182 KA 23-00328 · Decided April 24, 2026

SUMMARY

The New York Appellate Division, Fourth Department, unanimously affirmed a judgment convicting Carlos Machado-Garcia of offenses including criminal possession of stolen property, burglary, attempted grand larceny, and grand larceny. The court rejected challenges to the weight of the evidence, denial of severance, ineffective assistance of counsel, and the severity of the sentence.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Curran, J.P.; Montour, J.; Smith, J.; Ogden, J.; DelConte, J.
JURISDICTION	New York Supreme Court, Appellate Division, Fourth Department
DECIDED	April 24, 2026
DOCKET	182 KA 23-00328
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Supreme Court, Monroe County, entered after a jury trial and convicting him of two counts of criminal possession of stolen property in the third degree, two counts of burglary in the third degree, attempted grand larceny in the third degree, and grand larceny in the fourth degree.
STANDARD OF REVIEW	For the weight-of-the-evidence claim, the court viewed the evidence in light of the elements of the charged offense. The severance ruling was reviewed under the statutory good-cause standard. The ineffective- assistance claims were evaluated under New York law governing whether alleged errors constituted more than disagreement with trial strategy, tactics, or cross-examination. The sentence was reviewed for whether it was unduly harsh or severe.
PRECEDENTIAL VALUE	published

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Carlos Machado-Garcia v. The People of the State of New York

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QUESTIONS PRESENTED

1. Whether the conviction for criminal possession of stolen property in the third degree under the first count was against the weight of the evidence.
2. Whether the trial court abused its discretion by denying defendant's motion to sever counts arising from four separate theft-related incidents.
3. Whether defendant preserved a challenge to the adequacy of the jury's limiting instruction concerning separate consideration of the counts.
4. Whether defendant received ineffective assistance of counsel, including at sentencing.
5. Whether defendant's sentence was unduly harsh or severe.

HOLDINGS

1. The verdict was not against the weight of the evidence because the circumstances, including defendant's exclusive possession of the stolen vehicle and contradictory statements about its owner, supported the jury's inference that defendant knowingly possessed stolen property.
2. The trial court properly denied severance because the offenses were the same or similar and therefore properly joinable, and defendant failed to show good cause for severance or a substantial likelihood that the jury could not separately consider the evidence.
3. Defendant failed to preserve his alternative contention that the court gave an insufficient limiting instruction regarding separate consideration of the indictment's counts.
4. Defendant's ineffective-assistance claim concerning sentencing was not properly before the court because it related to the judgment on a separate indictment. The remaining claims were merely disagreements with trial strategies, tactics, or the scope of cross-examination and did not establish ineffective assistance.
5. The sentence was not unduly harsh or severe.

KEY QUOTATIONS

"Knowledge that property is stolen can be established through circumstantial evidence such as by evidence of recent exclusive possession, defendant's conduct[,] or contradictory statements from which guilt may be inferred" (*1)

*“the fact that defendant was acquitted of [certain] charges 'indicates that the jury was able to consider the proof concerning each count separately'” (*2)*

FACTUAL BACKGROUND

Defendant was found alone in a stolen vehicle parked in front of a business after midnight. When questioned by police, he gave conflicting statements about the vehicle's purported owner and could not provide that person's contact information. The indictment charged offenses arising from four separate theft-related incidents involving different stolen vehicles.

PROCEDURAL HISTORY

The Supreme Court, Monroe County, rendered judgment on December 22, 2022, following a jury verdict convicting defendant of the charged offenses. Defendant appealed, challenging the weight of the evidence, denial of severance, the jury instructions, ineffective assistance of counsel, and the severity of his sentence. The Appellate Division unanimously affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Danielson, 9 NY3d 342, 349 (2007)
- People v. Bleakley, 69 NY2d 490, 495 (1987)
- People v. Cintron, 95 NY2d 329, 332 (2000)
- People v. Waterford, 124 AD3d 1246, 1246-1247 (4th Dept 2015), lv denied, 26 NY3d 972 (2015)
- People v. Brown, 174 AD3d 1329, 1332 (4th Dept 2019), lv denied, 34 NY3d 979 (2019)
- People v. Ohse, 114 AD3d 1285, 1286 (4th Dept 2014), lv denied, 23 NY3d 1041 (2014)
- People v. Rios, 107 AD3d 1379, 1380 (4th Dept 2013), lv denied, 22 NY3d 1158 (2014)
- People v. Cabrera, 188 AD2d 1062, 1063 (4th Dept 1992)
- People v. Brown, 172 AD3d 437, 437-438 (1st Dept 2019), lv denied, 33 NY3d 1067 (2019)
- People v. Smart (appeal No. 2), 224 AD2d 999, 999-1000 (4th Dept 1996), lv denied, 88 NY2d 854 (1996)
- People v. Smith, 147 AD3d 1527, 1528 (4th Dept 2017), lv denied, 29 NY3d 1087 (2017)
- People v. Barber-Montemayor, 138 AD3d 1455, 1457 (4th Dept 2016), lv denied, 28 NY3d 926 (2016)
- People v. Hymes, 174 AD3d 1295, 1299 (4th Dept 2019), affd, 34 NY3d 1178 (2020)
- People v. Dunbar, 183 AD3d 1263, 1264 (4th Dept 2020), lv denied, 35 NY3d 1044 (2020)
- People v. Mastin, 232 AD3d 1268, 1269 (4th Dept 2024), lv denied, 42 NY3d 1053 (2024)
- People v. Austen, 197 AD3d 861, 861-862 (4th Dept 2021), lv denied, 37 NY3d 1095 (2021)
- People v. Case, 197 AD3d 985, 988 (4th Dept 2021), lv denied, 37 NY3d 1160 (2022)
- People v. Lozada, 164 AD3d 1626, 1628 (4th Dept 2018), lv denied, 32 NY3d 1174 (2019)

OPINION

PER CURIAM.

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Appellate Division, Fourth Department

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

v

CARLOS MACHADO-GARCIA, DEFENDANT-APPELLANT.

Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department

Decided on April 24, 2026

182 KA 23-00328

Present: Curran, J.P., Montour, Smith, Ogden, And Delconte, JJ.

SARAH S. HOLT, CONFLICT DEFENDER, ROCHESTER (FABIENNE N. SANTACROCE OF COUNSEL), FOR DEFENDANT-APPELLANT.

BRIAN P. GREEN, DISTRICT ATTORNEY, ROCHESTER (RYAN ASHE OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Monroe County (Victoria M. Argento, J.), rendered December 22, 2022.

The judgment convicted defendant upon a jury verdict of criminal possession of stolen property in the third degree (two counts), burglary in the third degree (two counts), attempted grand larceny in the third degree and grand larceny in the fourth degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him after a jury trial of two counts of criminal possession of stolen property in the third degree (Penal Law § 165.50), two counts of burglary in the third degree (§ 140.20), one count of attempted grand larceny in the third degree (§§ 110.00, 155.35 [2]), and one count of grand larceny in the fourth degree (§ 155.30 [1]).

Viewing the evidence in light of the elements of the crime of criminal possession of stolen property in the third degree as charged to the jury (*see People v Danielson*, 9 NY3d 342, 349 [2007]), we reject defendant's contention that the verdict with respect to that crime as charged in the first count of the indictment is against the weight of the evidence (*see generally People v Bleakley*, 69 NY2d 490, 495 [1987]).

"Knowledge that property is stolen can be established through circumstantial evidence such as by evidence of recent exclusive possession, defendant's conduct[,] or contradictory statements from which guilt may be inferred" (*People v Cintron*, 95 NY2d 329, 332 [2000] [internal quotation marks omitted]; *see People v Waterford*, 124 AD3d 1246, 1246-1247 [4th Dept 2015], *lv denied* 26 NY3d 972 [2015]; *see also People v Brown*, 174 AD3d 1329, 1332 [4th Dept 2019], *lv denied* 34 NY3d 979 [2019]).

Here, the record establishes, *inter alia*, that defendant was found to be the sole occupant of the subject stolen vehicle parked in front of a business after midnight. When confronted by police, defendant provided conflicting statements as to the vehicle's purported owner and was unable to provide contact information for that person.

In light of the testimony at trial, we conclude that the jury was entitled to infer that defendant knowingly possessed a stolen vehicle (*see generally People v Ohse*, 114 AD3d 1285, 1286 [4th Dept 2014], *lv denied* 23 NY3d 1041 [2014]).
Contrary to defendant's further contention, Supreme Court properly denied his motion to sever the counts of the indictment based on the separate incidents to which they pertained because he failed to show " 'good cause for severance' " (*People v Rios*, 107 AD3d 1379, 1380 [4th Dept 2013], *lv denied* 22 NY3d 1158 [2014]; *see CPL 200.20 [3]*).

The indictment charged defendant with counts arising from four separate theft-related incidents where defendant was alleged to be using a different stolen vehicle on each occasion. The offenses were each " 'the same or similar' and thus were properly joinable [pursuant to CPL 200.20 (2) (c)]" (*People v Cabrera*, 188 AD2d 1062, 1063 [4th Dept 1992]; *see People v Brown*, 172 AD3d 437, 437-438 [1st Dept 2019], *lv denied* 33 NY3d 1067 [2019]; *People v Smart* [appeal No. 2], 224 AD2d 999, 999-1000 [4th Dept 1996], *lv denied* 88 NY2d 854 [1996]).

The evidence concerning each incident "was presented separately and was readily capable of being segregated in the minds of [*2] the jury," and defendant failed to establish that there was "a substantial likelihood that the jury would be unable to [separately consider the evidence]" (*Rios*, 107 AD3d at 1380). Indeed, "the fact that defendant was acquitted of [certain] charges 'indicates that the jury was able to consider the proof concerning each count separately' " (*id.*; *see People v Smith*, 147 AD3d 1527, 1528 [4th Dept 2017], *lv denied* 29 NY3d 1087 [2017]; *People v Barber-Montemayor*, 138 AD3d 1455, 1457 [4th Dept 2016], *lv denied* 28 NY3d 926 [2016]).

As defendant correctly concedes, he failed to preserve his alternative contention that the court provided the jury with an insufficient limiting instruction regarding the jury's duty to consider each of the counts of the indictment separately (*see generally People v Hymes*, 174 AD3d 1295,

1299 [4th Dept 2019], *affd* 34 NY3d 1178 [2020]). We likewise reject defendant's contention that he received ineffective assistance of counsel.

Initially, defendant's contention that he received ineffective assistance of counsel at sentencing is not properly before us on this appeal. Defendant was sentenced on two indictments, i.e., the instant indictment and a subsequent indictment related to charges arising from conduct that occurred while the charges on the instant indictment were pending. These circumstances triggered the consecutive sentencing regime provided by Penal Law § 70.25 (2-b).

Defendant contends that defense counsel was ineffective at sentencing by failing to provide sufficient mitigating circumstances in favor of concurrent sentences as contemplated by that statute. Defendant's contention, however, relates to his judgment of conviction on the second indictment, not the instant indictment (*see People v Dunbar*, 183 AD3d 1263, 1264 [4th Dept 2020], *lv denied* 35 NY3d 1044 [2020]).

We conclude that defendant's remaining contentions regarding the alleged ineffectiveness of counsel represent "simple disagreement[s] with [trial] strategies, tactics or the scope of possible cross-examination" that do not constitute ineffective assistance (*People v Mastin*, 232 AD3d 1268, 1269 [4th Dept 2024], *lv denied* 42 NY3d 1053 [2024]; *see People v Austen*, 197 AD3d 861, 861-862 [4th Dept 2021], *lv denied* 37 NY3d 1095 [2021]; *People v Case*, 197 AD3d 985, 988 [4th Dept 2021], *lv denied* 37 NY3d 1160 [2022]; *People v Lozada*, 164 AD3d 1626, 1628 [4th Dept 2018], *lv denied* 32 NY3d 1174 [2019]). Finally, we reject defendant's contention that his sentence is unduly harsh and severe.

Entered: April 24, 2026
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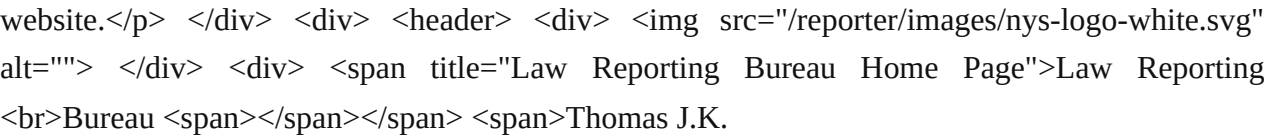
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PER CURIAM.

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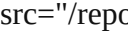


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