

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

People v. Nieves

2022 NY Slip Op 00259 (App. Div. 2022) · No. Ind. No. 1175N/16; Appeal No. 15049; Case No. 2018-441 · Decided January 13, 2022

SUMMARY

The Appellate Division, First Department, unanimously affirmed the judgment of Supreme Court, New York County, convicting Juan Nieves. The court granted assigned counsel's application to withdraw under *Anders v. California*, finding no nonfrivolous issues for appeal, and advised the defendant regarding an application for leave to appeal to the Court of Appeals.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Acosta, P.J.; Manzanet-Daniels, J.; González, J.; Mendez, J.; Rodriguez, J.
JURISDICTION	New York
DECIDED	January 13, 2022
DOCKET	Ind. No. 1175N/16; Appeal No. 15049; Case No. 2018-441
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of conviction rendered by Supreme Court, New York County. Appellate counsel moved to withdraw under <i>Anders v. California</i> , asserting that no nonfrivolous appellate issues existed.
STANDARD OF REVIEW	Independent review of the record in connection with appellate counsel's <i>Anders</i> motion to determine whether any nonfrivolous issue existed.
PRECEDENTIAL VALUE	published
PARTIES	Juan Nieves v. The People of the State of New York

TOPICS

- appellate procedure
- right to counsel
- criminal procedure

PRACTICE AREAS

criminal appellate procedure

right to counsel

QUESTIONS PRESENTED

1. Whether appointed appellate counsel should be permitted to withdraw under *Anders v. California* because the record presents no nonfrivolous appellate issue.
2. Whether the judgment of Supreme Court, New York County, should be affirmed after the appellate court's review of the record.

HOLDINGS

1. The court granted defendant's counsel's application to withdraw because its review of the record confirmed that there were no nonfrivolous points that could be raised on appeal.
2. The judgment of Supreme Court, New York County, was unanimously affirmed.

KEY QUOTATIONS

"We have reviewed this record and agree with defendant's assigned counsel that there are no non-frivolous points which could be raised on this appeal." ([*1])

FACTUAL BACKGROUND

The opinion concerns a criminal judgment rendered against Juan Nieves in Supreme Court, New York County, on March 20, 2017. The appellate record and underlying offense facts are not described in the opinion. Assigned appellate counsel concluded that there were no nonfrivolous issues and sought permission to withdraw.

PROCEDURAL HISTORY

Supreme Court, New York County, rendered judgment on March 20, 2017. On appeal, assigned counsel applied to withdraw, and the First Department independently reviewed the record, agreed that no nonfrivolous points could be raised, granted withdrawal, and unanimously affirmed the judgment.

DISPOSITION

affirmed

CASES CITED

- *Anders v. California*, 386 U.S. 738 (1967)
- *People v. Saunders*, 52 A.D.2d 833 (1st Dep't 1976)

OPINION

PER CURIAM.

People v Nieves (2022 NY Slip Op 00259) People v Nieves 2022 NY Slip Op 00259 Decided on January 13, 2022 Appellate Division, First 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 and Entered: January 13, 2022 Before: Acosta, P.J., Manzanet-Daniels, González, Mendez, Rodriguez, JJ. Ind No. 1175N/16 Appeal No. 15049 Case No. 2018-441 [*1]The People of The State of New York, Respondent, vJuan Nieves, Defendant-Appellant.

Janet E. Sabel, The Legal Aid Society, New York (DÉsirÉE Sheridan of counsel), for appellant. Judgment, Supreme Court, New York County (Michael Sonberg, J.), rendered March 20, 2017, unanimously affirmed. Application by defendant's counsel to withdraw as counsel is granted (see *Anders v California*, 386 US 738 [1967]; *People v Saunders*, 52 AD2d 833 [1st Dept 1976]).

We have reviewed this record and agree with defendant's assigned counsel that there are no non-frivolous points which could be raised on this appeal. Pursuant to Criminal Procedure Law § 460.20, defendant may apply for leave to appeal to the Court of Appeals by making application to the Chief Judge of that Court and by submitting such application to the Clerk of that Court or to a Justice of the Appellate Division of the Supreme Court of this Department on reasonable notice to the respondent within thirty (30) days after service of a copy of this order.

Denial of the application for permission to appeal by the judge or justice first applied to is final and no new application may thereafter be made to any other judge or justice. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: January 13, 2022