

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

People v. Carranza

2023 NY Slip Op 02535 (N.Y. Ct. App. 2023) · No. 2021-02604 · Decided May 10, 2023

SUMMARY

The Appellate Division, Second Department, held that the defendant's guilty plea was knowing, voluntary, and intelligent, but vacated the sentence because the trial court did not explicitly determine whether he should receive youthful offender treatment. The matter was remitted for resentencing and reconsideration of mandatory surcharges and fees.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Mark C. Dillon, J.P.; Lara J. Genovesi, J.; William G. Ford, J.; Janice A. Taylor, J.
JURISDICTION	New York
DECIDED	May 10, 2023
DOCKET	2021-02604
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Supreme Court, Nassau County, entered after his guilty plea to assault in the second degree and imposing sentence.
STANDARD OF REVIEW	The challenge to the validity of the guilty plea was reviewed under New York's preservation rule; because defendant did not move to withdraw the plea or otherwise raise the issue below, review was unavailable absent the narrow exception. The youthful-offender issue was reviewed as a matter of law on the record.
PRECEDENTIAL VALUE	Published appellate opinion
PARTIES	Jonathan Gutierrez Carranza v. The People of the State of New York

TOPICS

- sentencing
- criminal procedure
- preservation of error
- appellate procedure

PRACTICE AREAS

criminal procedure

sentencing

appellate procedure

QUESTIONS PRESENTED

1. Whether defendant's challenge to the knowing, voluntary, and intelligent nature of his guilty plea was preserved for appellate review.
2. Whether the guilty plea was knowing, voluntary, and intelligent notwithstanding defendant's claim to the contrary.
3. Whether the trial court was required to make an explicit youthful-offender determination because defendant was an eligible youth.
4. Whether the sentence had to be vacated and the matter remitted for a youthful-offender determination and resentencing.
5. Whether mandatory surcharges and fees had to be reconsidered after the youthful-offender determination and resentencing.

HOLDINGS

1. Defendant's contention that his guilty plea was not knowing, voluntary, and intelligent was unpreserved because he did not move to withdraw the plea or otherwise raise the issue before the Supreme Court, and the narrow exception to the preservation rule did not apply.
2. In any event, defendant's guilty plea was knowingly, voluntarily, and intelligently entered.
3. A court must make an explicit youthful-offender determination on the record in every case in which the defendant is eligible, even if the defendant does not request youthful-offender treatment or agrees to waive it as part of a plea bargain.
4. Upon determining defendant's youthful-offender status and resentencing him, the Supreme Court must reconsider the imposition of mandatory surcharges and fees.

KEY QUOTATIONS

*“Criminal Procedure Law § 720.20(1) requires a court to make a youthful offender determination in every case where the defendant is eligible, even where the defendant fails to request it, or agrees to forego it as part of a plea bargain” (*1)*

*“Where a defendant is an eligible youth, the determination of whether to afford him or her youthful offender treatment must be explicitly made on the record” (*1)*

FACTUAL BACKGROUND

Jonathan Gutierrez Carranza pleaded guilty to assault in the second degree in Supreme Court, Nassau County. He was an eligible youth for purposes of youthful-offender treatment, but the record did not demonstrate that the trial court explicitly determined whether he should receive that treatment. The trial court imposed sentence, including mandatory surcharges and fees.

PROCEDURAL HISTORY

The Supreme Court, Nassau County, convicted defendant upon his plea of guilty and imposed sentence on March 10, 2021. The Appellate Division held that defendant's challenge to the validity of his plea was unpreserved and meritless, but vacated the sentence because the trial court did not make the required youthful-offender determination. The matter was remitted for that determination, resentencing, and reconsideration of mandatory surcharges and fees.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the sentence and remit the matter to the Supreme Court, Nassau County, for further proceedings, including an explicit determination whether defendant should be afforded youthful-offender treatment, resentencing, and reconsideration of mandatory surcharges and fees.

CASES CITED

- People v. Pray, 183 A.D.3d 842, 842
- People v. Coleman, 138 A.D.3d 1014, 1015
- People v. Catts, 26 A.D.3d 341, 341
- People v. Patel, 74 A.D.3d 1098, 1099
- People v. Baldwin, 186 A.D.3d 498, 498
- People v. Rudolph, 21 N.Y.3d 497, 501
- People v. Lockwood, 184 A.D.3d 670, 670
- People v. Belford, 210 A.D.3d 793
- People v. Downing, 200 A.D.3d 704
- People v. Slide, 197 A.D.3d 1184
- People v. Lessane, 169 A.D.3d 827
- People v. Dyshawn B., 196 A.D.3d 638, 641

OPINION

PER CURIAM.

People v Carranza (2023 NY Slip Op 02535) People v Carranza 2023 NY Slip Op 02535 Decided on May 10, 2023 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 May 10, 2023 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department MARK C. DILLON, J.P.

LARA J. GENOVESI WILLIAM G. FORD JANICE A. TAYLOR, JJ. 2021-02604 (Ind. No. 1366/19) [*1]The People of the State of New York, respondent, vJonathan Gutierrez Carranza, appellant. Jillian S. Harrington, Staten Island, NY, for appellant. Anne T. Donnelly, District Attorney, Mineola, NY (Daniel Bresnahan and Tammy J. Smiley of counsel), for respondent. DECISION & ORDER Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Helene F. Gugerty, J.), rendered March 10, 2021, convicting him of assault in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is modified, on the law, by vacating the sentence imposed; as so modified, the judgment is affirmed, and the matter is remitted to the Supreme Court, Nassau County, for further proceedings consistent herewith.

The defendant's contention that his plea of guilty was not knowing, voluntary, and intelligent is unpreserved for appellate review, as he did not move to withdraw his plea or otherwise raise the issue before the Supreme Court (see *People v Pray*, 183 AD3d 842, 842; *People v Coleman*, 138 AD3d 1014, 1015; *People v Catts*, 26 AD3d 341, 341), and the narrow exception to the preservation rule is inapplicable in this case (see *People v Patel*, 74 AD3d 1098, 1099).

In any event, the defendant's plea of guilty was knowingly, voluntarily, and intelligently entered. "Criminal Procedure Law § 720.20(1) requires a court to make a youthful offender determination in every case where the defendant is eligible, even where the defendant fails to request it, or agrees to forego it as part of a plea bargain" (*People v Baldwin*, 186 AD3d 498, 498; see *People v Rudolph*, 21 NY3d 497, 501).

"Where a defendant is an eligible youth, the determination of whether to afford him or her youthful offender treatment must be explicitly made on the record" (*People v Lockwood*, 184 AD3d 670, 670). Here, even though the defendant was an eligible youth, the record does not demonstrate that the Supreme Court made such a determination.

Accordingly, the sentence must be vacated and the matter remitted to the Supreme Court, Nassau County, for resentencing after a determination as to whether the defendant should be afforded youthful offender treatment (see *People v Belford*, 210 AD3d 793; *People v Downing*, 200 AD3d 704; *People v Slide*, 197 AD3d 1184; *People v Baldwin*, 186 AD3d 498; *People v Lockwood*, 184 AD3d 670; *People v Lessane*, 169 AD3d 827).

We express no opinion as to whether the court should afford youthful offender treatment to the defendant. Further, upon determination of the defendant's youthful offender status and resentencing, the Supreme Court must reconsider the imposition of mandatory surcharges and fees [*2](see *People v Dyshawn B.*, 196 AD3d 638, 641).

The defendant's remaining contention is without merit. DILLON, J.P., GENOVESI, FORD and TAYLOR, JJ., concur. ENTER: Maria T. Fasulo Clerk of the Court

