

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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_____AD3d_____

Submitted - October 30, 2025

COLLEEN D. DUFFY, J.P.
PAUL WOOTEN
PHILLIP HOM
ELENA GOLDBERG VELAZQUEZ, JJ.

2023-01423

DECISION & ORDER

The People, etc., respondent,
v Tommy Cruz, appellant.

(Ind. No. 72142/21)

Patricia Pazner, New York, NY (Steven Kuza of counsel), for appellant.

Eric Gonzalez, District Attorney, Brooklyn, NY (Leonard Joblove and Jean M. Joyce of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Donald Leo, J.), rendered January 17, 2023, convicting him of attempted criminal possession of a weapon in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is modified, on the law and as a matter of discretion in the interest of justice, by vacating the imposition of a mandatory surcharge and fees; as so modified, the judgment is affirmed.

The period of postrelease supervision imposed as part of the sentence was not excessive (*see People v Suitte*, 90 AD2d 80).

“Criminal Procedure Law § 420.35(2-a) permits the waiver of surcharges and fees for individuals, like the defendant, who were less than 21 years old at the time of the subject crime” (*People v Cabrera*, 222 AD3d 878, 879). In light of the defendant’s age at the time of the crime and his indigency, pursuant to the exercise of our interest of justice jurisdiction, and as consented to by the People, we modify the judgment by vacating the mandatory surcharge and fees imposed upon the defendant at sentencing (*see CPL 420.35[2-a][c]*; *People v Odesanya*, 225 AD3d 631, 632).

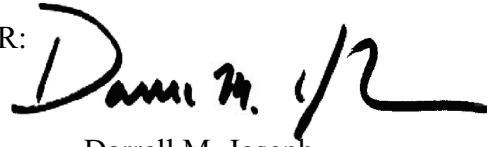
April 15, 2026

Page 1.

PEOPLE v CRUZ, TOMMY

DUFFY, J.P., WOOTEN, HOM and GOLDBERG VELAZQUEZ, JJ., concur.

ENTER:

A handwritten signature in black ink, appearing to read "Darrell M. Joseph". The signature is written in a cursive style with a large initial "D" and a long horizontal stroke at the end.

Darrell M. Joseph
Clerk of the Court