

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

D80533
Q/

_____AD3d_____

Submitted - April 16, 2026

COLLEEN D. DUFFY, J.P.
BETSY BARROS
BARRY E. WARHIT
LISA S. OTTLEY, JJ.

2024-04805

DECISION & ORDER

The People, etc., respondent,
v Dwayne Hough, appellant.

(Ind. No. 72272/22)

Steven A. Feldman, Manhasset, NY, for appellant.

Anne T. Donnelly, District Attorney, Mineola, NY (Tammy J. Smiley and Francine R. Michel of counsel), for respondent.

Appeal by the defendant from a judgement of the County Court, Nassau County (Terence P. Murphy, J.), rendered May 15, 2024, convicting him of attempted criminal sale of a controlled substance in the third degree and assault in the third 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 provision thereof directing payment of the mandatory surcharge, crime victim assistance fee, and DNA databank fee by civil judgment, and substituting therefor a provision directing payment of the mandatory surcharge, crime victim assistance fee, and DNA databank fee pursuant to Penal Law § 60.35(5); as so modified, the judgment is affirmed.

Contrary to the defendant's contention, the period of postrelease supervision imposed as part of his sentence was not excessive (*see People v Suitte*, 90 AD2d 80).

However, the County Court, at sentencing, should not have directed payment of the mandatory surcharge, crime victim assistance fee, and DNA databank fee by civil judgment (*see* Penal Law § 60.35[5]; *People v Jones*, 26 NY3d 730, 732; *People v Grant*, 185 AD3d 608, 610). Although this issue is unreserved for appellate review (*see* CPL 470.05[2]), we reach it in the exercise of our interest of justice jurisdiction (*cf. People v Clemmons*, 171 AD3d 1207).

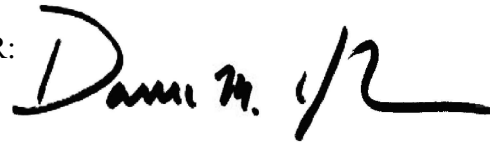
May 13, 2026

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DUFFY, J.P., BARROS, WARHIT and OTTLEY, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Darrell M. Joseph". The signature is written in a cursive style with a large initial "D" and a stylized "J" at the end.

Darrell M. Joseph
Clerk of the Court