State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: October 8, 2026 CR-23-0918

THE PEOPLE OF THE STATE OF NEW YORK,
Respondent,
v MEMORANDUM AND ORDER

MARIE A. ALLEN,
Appellant.

Calendar Date: September 17, 2026

Before: Clark, J.P., Ceresia, McShan, Powers and Ryba, JJ.

Noreen McCarthy, Keene Valley, for appellant.

Brett R. Eby, District Attorney, Ballston Spa (*Michael J. Caggianelli* of counsel), for respondent.

McShan, J.

Appeal from a judgment of the County Court of Saratoga County (James Murphy III, J.), rendered May 4, 2023, convicting defendant upon her plea of guilty of the crime of aggravated driving while intoxicated with a child passenger.

On April 11, 2022, defendant was driving with her one-year-old child on Interstate 87 in the Town of Wilton, Saratoga County, when a state trooper observed her traveling erratically at a high rate of speed. During the traffic stop that ensued, defendant admitted that she had taken her prescribed medications and used medical marihuana earlier that day. She was placed under arrest after she exhibited signs of impairment and failed field

sobriety testing, and a later blood test confirmed the presence of chemicals associated with marihuana and prescription medications in her system.

Defendant was subsequently charged in an eight-count indictment with offenses connected to the incident. During pretrial motion practice, defendant unsuccessfully sought to strike the People's certificate and supplemental certificate of compliance with their discovery obligations and statement of readiness for trial and to dismiss the indictment on statutory speedy trial grounds (*see* CPL 30.30). Defendant thereafter agreed to plead guilty to aggravated driving while intoxicated with a child passenger in satisfaction of the indictment. The agreement, which included a waiver of the right to appeal, contemplated that defendant would be sentenced to a five-year term of probation and a fine and that fees, surcharges and "the standard [driving while intoxicated] conditions" would be imposed. Defendant argued that the imposition of a probation condition requiring the installation of an ignition interlock device on vehicles she owned and/or operated was not mandated because the offense to which she was pleading guilty arose out of her drug, not alcohol, use. After County Court disagreed, defendant confirmed that she still wanted to move forward and pleaded guilty. County Court imposed the agreed-upon sentence, and the ignition interlock requirement was included in special probation conditions 13 through 23. Defendant appeals.

At the outset, we find defendant's appeal waiver to be valid. Although the written waiver executed by defendant contains overbroad language, County Court clarified during the plea colloquy that she "always [retained] the right to appeal from the plea and the sentence" and that the right to appeal was separate and distinct from the trial-related ones that were forfeited by her guilty plea. County Court also obtained confirmation from defendant that she wished to waive the right to appeal and knew that certain issues would survive that waiver, including the voluntariness of her plea, the validity of the waiver itself, the legality of the sentence and jurisdictional issues. County Court then ascertained that she had read, understood and signed the written waiver and that she had discussed it with defense counsel and had no further questions about it. As we are satisfied from the foregoing that defendant consulted with counsel and understood both the nature of the right to appeal and consequences of the waiver thereof, we find that her combined oral and written appeal waiver was knowing, intelligent and voluntary (*see People v Thomas*, 34 NY3d 545, 559, 564 [2019]; *People v Martin*, 243 AD3d 968, 969-970 [3d Dept 2025], *lv denied* 45 NY3d 946 [2026]; *People v Lesson*, 241 AD3d 1051, 1055 [3d Dept 2025], *lv denied* 44 NY3d 1028 [2025]; *People v Murauskas*, 240 AD3d 1007, 1008 [3d Dept 2025], *lv denied* 43 NY3d 1057 [2025]).

Defendant's assertion that her plea was not knowing, voluntary and intelligent in various respects, as well as her related claim that she received the ineffective assistance of counsel in connection with that plea, survive her appeal waiver but are unpreserved in the absence of an appropriate postallocution motion that she had sufficient time to make (*see People v Randolph*, 248 AD3d 1568, 1569 [3d Dept 2026]; *People v Willetts*, 234 AD3d 1020, 1020 [3d Dept 2025], *lv denied* 43 NY3d 966 [2025]). Our review of the record leaves us satisfied that defendant made no statements during the plea colloquy that cast doubt upon her guilt or otherwise called the voluntariness of her plea into question so as to implicate the narrow exception to the preservation rule (*see id.*). We would note, in any event, that County Court properly conducted further inquiry after defendant stated during the colloquy that she was "coherent" but had used the same prescription medications and medical marihuana she was using at the time of the charged offenses, ensuring that she was alert, understood what was occurring and was voluntarily pleading guilty (*see People v Jackson*, 163 AD3d 1360, 1361 [3d Dept 2018]). County Court also properly confirmed during the colloquy that the People – who had already been found to have complied with their disclosure obligations – had "not impermissibly conditioned [the plea agreement] on defendant waiving automatic disclosure under CPL article 245" (*People v Hewitt*, 201 AD3d 1041, 1043 n 5 [3d Dept 2022], *lv denied* 38 NY3d 928 [2022]; *see* CPL 245.75 [1]).

Defendant's further challenge to the People's certificate of compliance and statement of readiness was forfeited by her guilty plea (*see People v Sheehan*, 242 AD3d 1260, 1262 [3d Dept 2025], *lv denied* 44 NY3d 1054 [2025]; *People v Berry*, 236 AD3d 1199, 1200 [3d Dept 2025], *lv denied* 44 NY3d 1064 [2026]; *People v Maclean*, 226 AD3d 1178, 1180 n 1 [3d Dept 2024], *lv denied* 41 NY3d 1019 [2024]). Her related claim that a statutory speedy trial violation occurred is, contrary to her assertion, precluded by her valid appeal waiver (*see People v Wint*, 222 AD3d 1050, 1051 [3d Dept 2023], *lv denied* 41 NY3d 945 [2024]; *People v Dennis*, 206 AD3d 1369, 1371 [3d Dept 2022]; *People v Votaw*, 190 AD3d 1162, 1164 [3d Dept 2021], *lv denied* 36 NY3d 1101 [2021]).

Finally, defendant's constitutional challenge to the statute mandating probation conditions requiring the installation of an ignition interlock device in certain cases, Vehicle and Traffic Law § 1198, is unpreserved given her failure to raise it before County Court (*see* CPL 470.05 [2]; *People v Mower*, 97 NY2d 239, 245 [2002]; *People v Keebler*, 15 AD3d 724, 727 [3d Dept 2005], *lv denied* 4 NY3d 854 [2005]). She preserved her related argument that the requirement is inapplicable under the facts of this case via her objection during the plea proceedings, however, and that argument survives

her appeal waiver because it implicates the legality of her sentence (*see People v Rhodehouse*, 238 AD3d 1435, 1436 [3d Dept 2025]; *People v Romanelli*, 188 AD3d 1354, 1355 [3d Dept 2020], *lv denied* 36 NY3d 1059 [2021]). As we recently held, sentencing conditions requiring the installation of an ignition interlock device are illegal where "an alcohol-related offense was not an essential element of [the] conviction" (*People v Cassell*, 248 AD3d 1433, 1439 [3d Dept 2026]; *see* Penal Law § 65.10 [2] [k-1]; Vehicle and Traffic Law § 1198 [2] [a]; *People v Miller*, 191 AD3d 802, 803 [2d Dept 2021]).[1] Defendant correctly observes that this is such a case, as the charge to which she pleaded guilty was premised upon her drug use and, indeed, both County Court and the People acknowledged during the plea colloquy that alcohol use was not at issue (*see* Vehicle and Traffic Law § 1192 [4], [4-a]). Thus, special probation conditions 13 through 23 "are invalid and must be vacated" (*People v Fishel*, 128 AD3d 15, 19 [3d Dept 2015]). To the extent that they are not addressed by the foregoing, defendant's remaining contentions have been considered and rejected.

Clark, J.P., Ceresia, Powers and Ryba, JJ., concur.

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[1] We note that County Court erroneously declined to apply *People v Miller* (191 AD3d at 803) – which also held that the ignition interlock requirement was inapplicable in drugged driving cases and was cited by defendant – upon the ground that such was a Second Department case and there was no binding precedent from this Court or the Court of Appeals. "The Appellate Division is a single [s]tate-wide court divided into departments for administrative convenience," and "the doctrine of *stare decisis* requires trial courts . . . to follow precedents set by the Appellate Division of another department until the Court of Appeals or this [C]ourt pronounces a contrary rule" (*Mountain View Coach Lines v Storms*, 102 AD2d 663, 664 [2d Dept 1984] [citations omitted]; *see People v Turner*, 5 NY3d 476, 482 [2005]; *Ball v New York State Dept. of Health*, ___ AD3d ___, ___, 256 NYS3d 430, 433 n 2 [3d Dept 2026]).

ORDERED that the judgment is modified, on the law, by vacating special probation conditions 13 through 23 insofar as they involve an ignition interlock device, and, as so modified, affirmed.

ENTER:



Robert D. Mayberger
Clerk of the Court