

# State of New York Court of Appeals

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## MEMORANDUM

This memorandum is uncorrected and subject to revision before publication in the New York Reports.

No. 119  
The People &c.,  
Respondent,  
v.  
Kenneth Garcia,  
Appellant.

David Fitzmaurice, for appellant.  
Christopher J. Blira-Koessler, for respondent.  
The Innocence Project, Inc., amicus curiae.

### MEMORANDUM:

The order of the Appellate Division should be affirmed.

Defendant's argument that the showup identification procedure was unduly suggestive because of its collective nature—defendant was presented for identification

alongside his two codefendants—and specifically, that the strength of the victim’s identification as to one of the codefendants infected the identification of defendant is unpreserved (*see* CPL 470.05 [2]; *cf. People v Ceden*, 27 NY3d 110, 123 n 3 [2016]). Defendant’s remaining arguments lack merit.

Order affirmed, in a memorandum. Chief Judge Wilson and Judges Rivera, Garcia, Singas, Cannataro, Troutman and Halligan concur.

Decided December 12, 2024