

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

People v. Forston

2026 NY Slip Op 03460 · No. 2025-14360 · Decided June 3, 2026

OPINION

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PER CURIAM.

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warrants a departure to avoid an overassessment of the defendant's dangerousness and risk of sexual recidivism (see *People v Gillotti* , 23 NY3d at 861 ; *People v Felton* , 175 AD3d 734 , 735). Although a debilitating illness may constitute a basis for a downward departure (see Guidelines at 5; *People v Jimenez* , 178 AD3d 1099 , 1101), the defendant failed to provide sufficient medical evidence to establish by a preponderance of the evidence that his medical condition and physical limitations were sufficient to reduce his risk of reoffending (see *People v Kumar* , 242 AD3d 1231 ; *People v Laskaris* , 231 AD3d 1173 , 1174). Moreover, the defendant did not submit any medical evidence demonstrating that his sexual functioning had been impaired by his medical condition and, thus, failed to show that his condition resulted in an overassessment of his risk to public safety (see *People v Parisi* , 212 AD3d 666, 668 ; *People v Jimenez* , 178 AD3d at 1101). Accordingly, the Supreme Court properly denied the defendant's application for a downward departure and designated him a level two sex offender. CONNOLLY, J.P., DOWLING, WAN and QUIRK, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court

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