

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, FIRST DEPARTMENT

People v. Solar

2025 NY Slip Op 06552 (Appellate Division of the Supreme Court of the State of New York First Department 2025) · No. Ind No. 6127/02; Appeal No. 5236; Case No. 2022-04891 · Decided November 25, 2025

SUMMARY

The Appellate Division, First Department unanimously affirmed an order adjudicating Felipe Solar a level three sexually violent predicate offender under New York's Sex Offender Registration Act. The court upheld the denial of a downward departure, finding that the risk assessment instrument adequately accounted for mitigating factors and that the underlying crimes and risk of harm supported the determination.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Webber, J.P.; Kennedy, J.; González, J.; Higgitt, J.; Michael, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	November 25, 2025
DOCKET	Ind No. 6127/02; Appeal No. 5236; Case No. 2022-04891
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from an order of Supreme Court, New York County, adjudicating him a level three sexually violent predicate offender under the Sex Offender Registration Act.
STANDARD OF REVIEW	Abuse of discretion; whether the lower court providently exercised its discretion in declining a downward departure.
PRECEDENTIAL VALUE	Published New York Appellate Division decision
PARTIES	Felipe Solar v. The People of the State of New York

TOPICS

- sentencing
- appellate procedure
- standard of review
- criminal procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Supreme Court providently exercised its discretion in declining to grant a downward departure from the level three sexually violent predicate-offender classification.
2. Whether defendant's rehabilitative efforts, family support, age, or other mitigating circumstances warranted a downward departure.

HOLDINGS

1. Supreme Court providently exercised its discretion when it declined to grant a downward departure from defendant's level three sexually violent predicate-offender classification.
2. Defendant failed to demonstrate that his rehabilitative efforts, family support, or age warranted a downward departure.

KEY QUOTATIONS

“The court providently exercised its discretion when it declined to grant a downward departure” ([*1])

“There were no mitigating factors that were not adequately taken into account by the risk assessment instrument.” ([*1])

“There is no basis for a downward departure, given the egregiousness of the underlying crimes and the danger that a reoffense by defendant would cause a high degree of harm” ([*1])

FACTUAL BACKGROUND

Felipe Solar was adjudicated a level three sexually violent predicate offender under the Sex Offender Registration Act. The appellate court noted the egregiousness of the underlying crimes and the high degree of harm that a reoffense would cause. Defendant relied on his rehabilitative efforts, family support, and age as grounds for a downward departure.

PROCEDURAL HISTORY

Supreme Court, New York County, entered an order on or about September 23, 2022, adjudicating defendant a level three sexually violent predicate offender pursuant to Correction Law article 6-C. Defendant appealed, arguing that a downward departure was warranted based on mitigating circumstances, including rehabilitative efforts, family support, and age. The Appellate Division unanimously affirmed without costs.

DISPOSITION

affirmed

CASES CITED

- *People v. Gillotti*, 23 N.Y.3d 841, 861 (2014)

- People v. Roldan, 140 A.D.3d 411 (1st Dep't 2016), leave to appeal denied, 28 N.Y.3d 904 (2016)

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