

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

People v. Cuevas

Cuevas, 2026 NY Slip Op 03640 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Case No. 2020-02150; Appeal No. 6818; Ind. No. 138/19 · Decided June 9, 2026

SUMMARY

The Appellate Division, First Department unanimously affirmed Julio Cuevas's judgment of conviction for criminal sale of a controlled substance in the third degree following his guilty plea. The court held that Cuevas's challenge to the adequacy of the sentencing inquiry regarding his post-plea statements was unpreserved and, in any event, the record did not cast doubt on the voluntariness of his plea.

OPINION

PER CURIAM.

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This decision is uncorrected and subject to revision before publication in the Official Reports. The People of the State of New York, Respondent, v Julio Cuevas, Defendant-Appellant. Decided and Entered: June 09, 2026 Ind. No. 138/19|Appeal No. 6818|Case No. 2020-02150| Before: Moulton, J.P., Friedman, Pitt-Burke, Rosado, Michael, JJ. The Legal Aid Society, New York (Mary-Kathryn Smith of counsel), for appellant.

Darcel D. Clark, District Attorney, Bronx (Noah J. Chamoy of counsel), for respondent. [*1] Judgment, Supreme Court, Bronx County (Nicholas Iacoveta, J.), rendered February 27, 2020, convicting defendant, upon his plea of guilty, of criminal sale of a controlled substance in the third degree, and sentencing him, as a second felony offender, to a term of 2½ years, unanimously affirmed.

Defendant asserts that Supreme Court should have engaged in a more detailed inquiry at sentencing concerning defendant's statement, made during his presentence investigation interview, that he was not guilty and wanted to retract his guilty plea. Defendant asserts, for the first time,

that the court's failure to engage in a more searching dialogue on this point renders the plea invalid.

This claim is unpreserved (see *People v Rios*, — NY3d —, 2026 NY Slip Op 00963, *3 [narrow exception to the preservation requirement set forth in *People v Lopez* (71 NY2d 662, 666 [1988]), does not apply to a defendant's "postplea statements at sentencing challenging the factual basis of his plea"]).

Moreover, defendant neither "moved to withdraw the plea under CPL 220.60(3) [n]or to vacate the judgment of conviction under CPL 440.10" (see *Rios*, 2026 NY Slip Op 00963, *1, 3). In any event, defense counsel stated at sentencing that defendant admitted his guilt and was trying to get drug treatment.

Moreover, in response to the court's inquiry, "Mr. Cuevas, you do not wish to take back your guilty plea, is that correct?" defendant answered "yes." The record on appeal does not cast doubt on the voluntariness of defendant's plea but merely reflects defendant's desire for another opportunity for treatment. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

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