

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

People v. Mirabel

2020 NY Slip Op 05691 (N.Y. Ct. App. 2020) · No. 2019-3589 · Decided October 13, 2020

SUMMARY

The New York Appellate Division, First Department unanimously affirmed an order adjudicating Eddi H. Mirabel a level two sex offender under the Sex Offender Registration Act. The court held that Supreme Court properly declined to grant a downward departure, citing the egregiousness of the underlying crime, the victim's injuries, and the absence of a basis for reducing the assessment.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Gische, J.P.; Singh, J.; Kennedy, J.; Mendez, J.
JURISDICTION	New York
DECIDED	October 13, 2020
DOCKET	2019-3589
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from an order of Supreme Court, New York County, adjudicating him a level two sex offender under the Sex Offender Registration Act.
STANDARD OF REVIEW	Abuse of discretion; the court reviewed whether Supreme Court providently exercised its discretion in declining a downward departure.
PRECEDENTIAL VALUE	published appellate decision
PARTIES	Eddi H. Mirabel v. The People of the State of New York

TOPICS

- appellate procedure
- standard of review
- sentencing

PRACTICE AREAS

- criminal law
- sex offender registration

QUESTIONS PRESENTED

1. Whether Supreme Court properly declined to grant defendant a downward departure from the presumptive sex-offender risk level.
2. Whether the record established an overassessment of risk-assessment points warranting a reduction in defendant's sex-offender risk level.

HOLDINGS

1. Supreme Court providently exercised its discretion in declining to grant a downward departure, and the record did not establish any basis for such a departure.

FACTUAL BACKGROUND

Defendant was adjudicated a level two sex offender under the Sex Offender Registration Act. The underlying crime involved a young victim who suffered severe injuries. The Appellate Division relied on the egregiousness of the crime and the severity of the victim's injuries in finding no overassessment of points and no basis for a downward departure.

PROCEDURAL HISTORY

Supreme Court, New York County, entered an order on or about December 12, 2018, adjudicating defendant a level two sex offender pursuant to the Sex Offender Registration Act. The Appellate Division, First Department, unanimously affirmed the order without costs.

DISPOSITION

affirmed

CASES CITED

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