

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

People v. Guillen-Beltre

2026 NY Slip Op 04042 · No. Ind. No. 0384/15; Appeal No. 6962; Case No. 2017-02093 · Decided June 25, 2026

SUMMARY

The Appellate Division, First Department unanimously affirmed Jean Guillen-Beltre's judgment of conviction for course of sexual conduct against a child in the first degree and his sentence of eight years followed by 10 years of postrelease supervision. The court held that defendant's valid appeal waiver foreclosed his excessive-sentence claim and rejected his argument that omission of the supplemental sex offender victim fee from the plea colloquy invalidated the plea.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Webber, J.P.; Kapnick, J.; Gesmer, J.; Pitt-Burke, J.; Chan, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	June 25, 2026
DOCKET	Ind. No. 0384/15; Appeal No. 6962; Case No. 2017-02093
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Supreme Court, Bronx County, entered after his guilty plea and sentencing.
STANDARD OF REVIEW	The court reviewed the validity and scope of the appeal waiver, the preservation and survivability of the plea-voluntariness claim, and whether the sentence warranted reduction; it found no basis to reduce the sentence and rejected the legal challenge to the fee.
PRECEDENTIAL VALUE	Published appellate decision
PARTIES	Jean Guillen-Beltre v. The People of the State of New York

TOPICS

- appellate procedure
- plea bargaining
- criminal procedure
- sentencing
- statutory interpretation

PRACTICE AREAS

criminal law

criminal procedure

appellate practice

QUESTIONS PRESENTED

1. Whether defendant validly waived his right to appeal and thereby foreclosed review of his excessive-sentence claim.
2. Whether defendant's challenge to the voluntariness of his guilty plea survived the valid appeal waiver and was exempt from preservation requirements.
3. Whether the omission of the supplemental sex offender victim fee from the plea colloquy rendered the guilty plea invalid because the fee was a direct consequence of the conviction.
4. Whether the sentence should be reduced notwithstanding the appeal waiver.

HOLDINGS

1. The combination of the court's colloquy and defendant's detailed written waiver, signed after consultation with counsel, constituted a valid waiver of the right to appeal, and the waiver foreclosed review of defendant's excessive-sentence claim.
2. Defendant's challenge to the voluntariness of his guilty plea was not subject to preservation requirements and survived the valid appeal waiver.
3. The supplemental sex offender victim fee imposed under Penal Law § 60.35(1)(b) is not a direct consequence of the conviction whose omission from the plea colloquy automatically invalidates a guilty plea.
4. The court found no basis to reduce defendant's sentence.

KEY QUOTATIONS

“Like the mandatory surcharge and crime victim assistance fee mandated by Penal Law § 60.35(1)(a), the supplemental sex offender victim fee under Penal Law § 60.35(1)(b) is not a part of a sentence and therefore a court need not pronounce it in a defendant's presence during sentencing” ([*1])

FACTUAL BACKGROUND

Defendant pleaded guilty to course of sexual conduct against a child in the first degree. He was sentenced to eight years of imprisonment followed by ten years of postrelease supervision. The sentencing record included an appeal-waiver colloquy and a detailed written waiver, while the supplemental sex offender victim fee was not mentioned during the plea colloquy.

PROCEDURAL HISTORY

Defendant pleaded guilty to course of sexual conduct against a child in the first degree in Supreme Court, Bronx County. The court rendered judgment on December 8, 2016, imposing an eight-year prison term followed by ten years of postrelease supervision. On appeal, defendant challenged the validity of his appeal waiver, the sentence,

the voluntariness of his plea, and the omission of the supplemental sex offender victim fee from the plea colloquy. The Appellate Division unanimously affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Thomas, 34 NY3d 545, 559, 567 (2019), cert denied, 589 US 1302, 140 S Ct 2634 (2020)
- People v. Scott, 226 AD3d 443, 443 (1st Dept 2024), lv denied, 42 NY3d 930 (2024)
- People v. Louree, 8 NY3d 541, 546 (2007)
- People v. Seaberg, 74 NY2d 1, 10 (1989)
- People v. Harnett, 16 NY3d 200, 205-206 (2011)
- People v. Guerrero, 12 NY3d 45, 48 (2009)

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 Jean guillen-Beltre, Appellant. Decided and Entered: June 25, 2026 Ind. No. 0384/15|Appeal No. 6962|Case No. 2017-02093| Before: Webber, J.P., Kapnick, Gesmer, Pitt-Burke, Chan, JJ. Caprice R. Jenerson, Office of The Appellate Defender, New York (Alexandra Ricks of counsel), for appellant.

Darcel D. Clark, District Attorney, Bronx (T. Charles Won of counsel), for respondent. [*1] Judgment, Supreme Court, Bronx County (Martin Marcus, J.), rendered December 8, 2016, convicting defendant, upon his plea of guilty, of course of sexual conduct against a child in the first degree, and sentencing him to a term of eight years followed by 10 years of postrelease supervision, unanimously affirmed.

Defendant validly waived his right to appeal (see People v Thomas, 34 NY3d 545, 559, 567 [2019], cert denied 589 US 1302, 140 S Ct 2634 [2020]). The combination of the court's colloquy and the detailed written waiver that defendant signed after consultation with counsel satisfied the requirements of a valid waiver (see People v Scott, 226 AD3d 443, 443 [1st Dept 2024], lv denied 42 NY3d 930 [2024]).

The waiver forecloses review of defendant's excessive sentence claim. In any event, we perceive no basis for reducing the sentence. Defendant's challenge to the voluntariness of his plea is not subject to preservation requirements, as he could not have moved to withdraw his plea under CPL 220.60(3) or to vacate the judgment of conviction under CPL 440 (see *People v Louree*, 8 NY3d 541, 546 [2007]), and it survives the valid appeal waiver (see *People v Seaberg*, 74 NY2d 1, 10 [1989]).

However, we reject defendant's contention that the supplemental sex offender victim fee is a direct consequence of a conviction whose omission from the plea colloquy automatically invalidates the plea (see *People v Harnett*, 16 NY3d 200, 205-206 [2011]; *People v Guerrero*, 12 NY3d 45, 48 [2009]). Like the mandatory surcharge and crime victim assistance fee mandated by Penal Law § 60.35(1)(a), the supplemental sex offender victim fee under Penal Law § 60.35(1)(b) is not a part of a sentence and therefore a court need not pronounce it in a defendant's presence during sentencing (see *Guerrero*, 12 NY3d at 48; CPL 380.20, 380.40).

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PER CURIAM.

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