

**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.

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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