

**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

OPINION

PER CURIAM.

People v guillen-Beltre - 2026 NY Slip Op 04042 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions People v guillen-Beltre 2026 NY Slip Op 04042 June 25, 2026 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.

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).

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: June 25, 2026 Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.

PER CURIAM.

People v guillen-Beltre - 2026 NY Slip Op 04042 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions *People v Guillen-Beltre* 2026 NY Slip Op 04042 June 25, 2026 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.

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).

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: June 25, 2026 Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.