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Legal Aid Secures Landmark Appellate Victory in *People v. Hudson*

Ruling Affirms Survivors of Domestic Violence Cannot be Forced by Prosecutors to Waive Hearing that Considers History of Abuse as Mitigation in Sentencing

(NEW YORK, NY) — The Legal Aid Society lauds a New York Court of Appeals [ruling](#) reversing the lower court decision in *People v. Hudson* and affirming that survivors of domestic violence who face criminal charges related to their abuse cannot be forced, as a condition of a plea agreement, to waive their right to a hearing that considers their history of abuse as mitigation in sentencing.

In 2019, New York State passed the [Domestic Violence Survivors Justice Act](#) (DVSJA), a groundbreaking statute that established critical protections for justice-involved survivors of domestic violence. The law allows judges to consider, through a DVSJA hearing, whether an individual’s history of abuse – when related to their criminal conduct – makes them eligible for a drastically reduced sentence. This long overdue avenue of relief enhances judges’ ability to impose fairer sentences on criminalized survivors across New York State.

Today’s appellate ruling reversed a Second Department decision in *People v. Hudson*, which found that prosecutors could condition a survivor’s plea agreement on the waiver of their right to a DVSJA hearing. The lower court’s ruling would have allowed prosecutors across the state to act as gatekeepers of this invaluable mitigation information by giving them the power to decide whether an individual’s unique history of trauma should be heard by the court. The Court of Appeals’ ruling, in accordance with the Legislature’s intent in crafting the statute, places that power back in the hands of trial judges.

“We celebrate the Court of Appeals’ ruling today that affirms that every survivor in the New York criminal legal system is entitled to a DVSJA hearing, regardless of whether they choose to accept a plea deal,” said **Paris DeYoung, Supervising Attorney with the Criminal Appeals Bureau at The Legal Aid Society**. “DVSJA hearings provide critical information and context that enhances judges’ ability to deliver real justice to survivors of domestic violence. As the Court affirmed today, prosecutors may not sweep this information under the rug by forcing survivors to waive their right to these hearings. The people we serve, and all justice-involved survivors across our state, deserve access to the lifechanging sentencing ranges that the DVSJA provides.”

Case background:

In 2021, Nicole Hudson, a survivor of domestic violence, pled guilty to one count of (reckless) assault in the first degree for her involvement in a 2019 incident. Ms. Hudson was actively fleeing from her abuser when she hit the complainant with her car, causing severe injuries.

Prior to accepting the plea, Ms. Hudson was told by the trial prosecutor that the plea offer was conditioned on her waiving her right to a DVSJA hearing, which would have determined her eligibility for a reduced sentence based on her history of domestic violence. Despite defense counsel's arguments that such a right cannot be waived pursuant to the statute, the trial court allowed the plea to proceed. Ms. Hudson accepted the offer and was sentenced to five years' imprisonment followed by five years of post-release supervision.

In 2023, Ms. Hudson filed an appeal arguing that the trial court erred in allowing her to waive her right to a DVJSA hearing. Ms. Hudson asked the Appellate Division to vacate her sentence and remit her case to the lower court for a DVSJA hearing. She also argued that the sentence she received was excessive and should be reduced.

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The Legal Aid Society is a nonprofit law firm that exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For 150 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of the people we serve and helps improve our communities.

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