

# A Second Look, With Limits: Court of Appeals Defines Scope of the Domestic Violence Survivors Justice Act

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## Introduction

In a pair of decisions released on June 17, 2025, the New York Court of Appeals provided critical guidance on the scope and application of the Domestic Violence Survivors Justice Act (DVSJA)—a law that allows incarcerated survivors of domestic violence to obtain reduced sentences for offenses arising from their abuse.

The decisions—*People v. Brenda WW.* and *People v. Angela VV.*—provide clarity to victims seeking DVSJA relief, resolving the standard of review on DVSJA applications and the calculation of the sentencing reduction available under the law.

## About the DVSJA and the Cases

Enacted in 2019, the DVSJA recognizes that survivors should be met with compassion and understanding, rather than punishment, and establishes a new sentencing framework for domestic violence survivors who commit offenses arising from their abuse.



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Under the DVSJA, applicants who have served at least eight years in prison can obtain a reduced sentence if they can meet three requirements: (1) they were a victim of serious physical, sexual, or psychological abuse by someone in their family or household at the time of the crime; (2) the abuse was a significant contributing factor to their commission of the crime; and (3) given the circumstances of the crime and the applicant's background, the original sentence they received would be unduly harsh.

Since the DVSJA was enacted, practitioners have worked to develop caselaw and appellate

decisions to provide clarity on the law's scope and application. Through these efforts, the first DVSJA cases to reach the Court of Appeals arrived earlier this year.

A pair of DVSJA cases came before the Court, raising significant procedural questions, including the proper standard of review for DVSJA appeals and whether an appellate court may reduce a successful applicant's term of post-release supervision when they have already served more prison time than the DVSJA maximum. Both rulings offer important guidance for practitioners handling DVSJA cases on appeal.

In *People v. Brenda WW.*, the Court of Appeals reversed a ruling by the Third Department that the applicant's prison time in excess of the DVSJA statutory maximum could be credited toward supervised release, finding that the DVSJA's five-year post-release supervision term is mandatory—regardless of how much time has already been served.

The court further clarified that *de novo* is the appropriate standard of review for the appellate court to apply in reviewing DVSJA decisions. In its companion decision in *People v. Angela V.V.*, the court reiterated the proper standard of review and summarily concluded that the Third Department's denial of DVSJA relief was "supported by the record and [was] otherwise beyond the scope of [the Court's] review."

### **Implications for DVSJA Applicants and Practitioners**

Taken together, these twin rulings underscore three critical principles. *First*, *de novo* review of

DVSJA resentencing applications is now settled law in New York. Appellate courts reviewing DVSJA applications have the authority to make independent factual findings and are not bound by the sentencing court's determinations.

This empowers survivors to seek full reconsideration on appeal and get a fulsome analysis of their application—even when initially denied. Practitioners can urge appellate courts to take a fresh look at the record, and judges are empowered to reverse unfavorable decisions without deference to lower courts.

However, this also means that practitioners must be prepared to defend the findings of a lower court decision granting an application, because an appeal by the government will authorize a fresh look from the appellate court.

In that case, practitioners must ensure that the appellate record is sufficiently developed to support resentencing under a *de novo* analysis, including a thorough documentation of abuse histories, psychological evaluations, and evidence of how the abuse contributed to the offense.

*Second*, applicants should carefully consider the timing of their application for resentencing, as time served incarcerated does not reduce the mandatory term of post-release supervision. Practitioners should advise clients early in the application process that supervised release will be imposed in every case.

In seeking resentencing relief, practitioners should focus on securing the greatest possible reduction in incarceration under the DVSJA factors, while also developing a robust reentry plan to help navigate the challenges and restrictions of post-release supervision.

Since post-release supervision cannot be avoided, courts will likely scrutinize reentry plans and an applicant's ability to successfully integrate—making it critical for practitioners to give careful attention to this aspect of the application.

*Third*, the Court of Appeals' decisions open the door to DVSJA applications that highlight not only abuse occurring at the time of the offense, but also earlier experiences—such as childhood or prior relationship abuse—that shaped the applicant's behavior and decision-making.

This marks an important development, as it allows courts to consider a fuller picture of a survivor's life and the ways in which prolonged trauma may have influenced their conduct. By situating the offense within this broader context, courts can better understand the realities of surviving abuse and the pathways that lead some victims into the justice system.

In *Brenda*, for example, in reaching its decision that Brenda was entitled to DVSJA relief, the Third Department referenced submissions that Brenda included as part of her application showing her history of abuse in family and prior relationships.

Expert testimony—particularly on the psychological impact of sustained abuse over an applicant's lifetime—and detailed life history documentation can be critical in presenting a fulsome narrative to the court.

In sum, the Court of Appeals has made clear that practitioners representing DVSJA applicants must, therefore, not only build a robust factual record but also prepare to advocate aggressively at the appellate level, where the law now empowers a second look that can be life changing.

And the landscape continues to develop: in *People v. Hudson* the Court of Appeals will soon decide whether a defendant waives their DVSJA resentencing hearing as part of a plea agreement—a question with huge implications for future cases. As more cases move through the appellate courts, we can expect continued clarification of how the DVSJA operates and how far its promise of justice for survivors will reach.

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