

**New York State Judges
need to rule according
to the law**

It's amazing how New York State judges can violate the Penal Law any time they want to keep someone in jail and get away with it. If anyone else violates the Penal Law, they would be arrested, prosecuted and sent to prison. I'm talking about all the judges from the lower courts up to the New York State Court of Appeals.

Judges are illegally using a defendant's first conviction to sentence them as a persistent violent felony offender. The sentencing guidelines for a persistent violent felony offender (Penal Law Section 70.08) states that, a persistent violent felony offender is a person who stands convicted of a violent felony offense as defined in subdivision one of section 70.02, after having previously been subjected to two or more predicate violent felony convictions.

The New York State Legislature did not intend the persistent violent felony offender law to apply, however, unless each of the two or more predicate violent felony convictions, other than the first, was for a felony which occurred after sentence had been imposed for the conviction which preceded it. There are many cases that support this.

To break it down in layman terms, in order to be sentenced as a persistent violent felony offender, a defendant must have his first conviction, followed by a second conviction, which is his **first** predicate, followed by a third conviction, which is his **second** predicate, and then his fourth conviction would make him a persistent violent felony offender. A defendant must have four convictions to be a persistent, anything less than four is unauthorized, illegal and invalid as a matter of law.

Furthermore, even the New York State Court of Appeals in 1984 agreed with the legislature that a defendant must have two or more predicates **other than the first**. But years later and even now the Court of Appeals is not honoring this law. They are violating defendant's rights and making them do years of incarceration well passed the maximum guidelines, which is unlawful imprisonment and cruel and unusual punishment.

If you have family or friends that have been sentenced as a persistent on their third conviction, tell them to fight it and don't give up. Don't let these incompetent judges get away with taking away the rest of their lives.