State of New York
Court of Appeals

To be argued Wednesday, February 14, 2024

No. 20 Syeed v Bloomberg L.P.

This federal case arose in 2018 when Nafeesa Syeed, a South Asian-American woman working as a reporter in Bloomberg Media's Washington, D.C. bureau, applied for several reporting jobs with Bloomberg in New York City, including a reporter position in Bloomberg's United Nations bureau. She was not hired for any of the New York jobs. When Syeed asked about the U.N. bureau job, which had been filled by a man, an editor allegedly told her one reason she had not been considered for the job was that it had not been designated a "diversity slot," which she took to mean Bloomberg would only consider her for designated "diversity" positions in New York City.

Syeed subsequently quit her Bloomberg job, moved to California and, in 2020, filed this lawsuit against Bloomberg under the New York City Human Rights Law (NYCHRL) and New York State Human Rights Law (NYSHRL) for discrimination on the basis of race and sex in denying her promotions, setting her compensation, and creating a hostile work environment. Bloomberg moved to dismiss for failure to state a claim.

U.S. District Court dismissed the suit, saying that, to state a claim under the NYCHRL or NYSHRL, "the impact of the employment action must be felt *by the plaintiff*" in New York City or State. The court said Syeed "did not experience the impact of the alleged discrimination in New York" because she did not "live or work" in the City or State when it occurred.

The U.S. Court of Appeals for the Second Circuit said Syeed's appeal raises "an unsettled issue of New York law:" whether an out-of-state resident who is denied a job in New York for discriminatory reasons can satisfy the New York-impact requirement of the Human Rights Laws. "The closest case is Hoffman v Parade Publications [15 NY3d 285], where the New York Court of Appeals held that, because NYCHRL and NYSHRL were intended to protect persons who inhabit or are persons within New York City and State, respectively, 'nonresidents of the city and state must plead and prove that the alleged discriminatory conduct had an impact within those respective boundaries,'" the court said. "Applying that test, the Hoffman court found that the plaintiff – who resided and worked in Georgia, but who attended quarterly meetings in, and was managed and fired from, New York City – was not himself sufficiently impacted within New York City or State to be able to bring a claim for discriminatory termination.... Hoffman, however, was silent as to whether, in discriminatory failure-to-hire or failure-to-promote cases, a nonresident plaintiff – who did not work in New York City or State, but who alleged that but for an employer's unlawful conduct, he or she would have worked in New York City or State – would also be unable to assert sufficient personal impact in New York City or State." The Second Circuit is asking this Court to resolve the core issue in the case by answering a certified question: "Whether a nonresident plaintiff not yet employed in New York City or State satisfies the impact requirement of the [NYCHRL or NYSHRL] if the plaintiff pleads and later proves that an employer deprived the plaintiff of a New York City- or State-based job opportunity on discriminatory grounds."

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For amici State and City: Assistant Solicitor General Cleland B. Welton II (212) 416-6197

State of New York
Court of Appeals

To be argued Wednesday, February 14, 2024

No. 21 People v Jonaiki Martinez Estrella

In June 2018, Jonaiki Martinez Estrella and about a dozen other members of the Trinitarios gang in the Bronx confronted 15-year-old Lesandro Guzman-Feliz and, believing he belonged to a rival gang, chased him into a bodega. A few gang members followed him into the store, beat him and dragged him out onto the street, where they all joined in the beating, which was captured on video. They repeatedly stabbed and slashed Guzman-Feliz with knives and a machete until Estrella stabbed him in the throat, inflicting the only fatal wound.

Estrella was convicted of first-degree murder, second-degree murder and lesser charges, and was sentenced to life without parole on the first-degree count of murder preceded by torture. That count was based on Penal Law § 125.27(a)(x), which applies to a defendant who intentionally caused the death of a person and "acted in an especially cruel and wanton manner pursuant to a course of conduct intended to inflict and inflicting torture upon the victim prior to the victim's death. As used in this subparagraph, 'torture' means the intentional and depraved infliction of extreme physical pain; 'depraved' means the defendant relished the infliction of extreme physical pain upon the victim evidencing debasement or perversion or that the defendant evidenced a sense of pleasure in the infliction of extreme physical pain...."

The Appellate Division, First Department vacated the first-degree murder conviction and remanded for resentencing on the remaining convictions, finding there was insufficient evidence to establish two elements of the crime. Noting that "the puncture wounds, cuts, scrapes, and blunt force injuries that the victim sustained" before he was stabbed in the throat "all were 'superficial' – a medical term describing an injury that affects the top layer of skin," the court said, "[I]t cannot be reasonably doubted that the fatal blow to the victim's neck caused extreme pain. Yet, that blow was a single act rather than a course of conduct. Thus, we find that defendant and his accomplices did not engage in a 'course of conduct' involving the intentional infliction of extreme physical pain." It said, "[T]he record also fails to support the conclusion that defendant 'relished' or 'evidenced a sense of pleasure in the infliction of extreme physical pain.' In arguing to the contrary, the People point out that, after the homicide, defendant twice told other gang members that he had 'hit [the victim] in the neck,' in a tone that the listener considered boastful. This did not meet the statutory standard. In our view, the statute contemplates evidence that the defendant savored the infliction of extreme pain in the process of inflicting the pain, and for its own sake."

The prosecution argues, "Nothing in the statute limits the definition of 'torture' to a series of physical assaults that each, independently, penetrates the deeper levels of the skin.... The jury rationally found, therefore, that by roughly dragging [the victim] from the bodega, beating and kicking him, and repeatedly stabbing him with knives and a machete, defendant and his cohorts inflicted extreme physical pain...." It also argues the evidence "proved that defendant's conduct was 'depraved' in that he reveled in the pain he inflicted.... [D]efendant bragged about the killing in comic-book style, exultantly remarking that the impaled victim was 'not gonna eat for a good long time....' As the jury rationally found, defendant's braggadocious statements, viewed in the context of the savage assault on [the victim], proved that defendant derived pleasure from inflicting pain on the helpless teenager."

For appellant: Bronx Assistant District Attorney Reva Grace Phillips (718) 664-2316
For respondent Estrella: Steven N. Feinman, White Plains (914) 949-8214

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Summaries of cases before the Court of Appeals are prepared by the Public Information Office for background purposes only. The summaries are based on briefs filed with the Court. For further information contact Gary Spencer at 518-455-7711 or gspencer@nycourts.gov.

To be argued Wednesday, February 14, 2024

No. 22 People v Jason Bohn

Jason Bohn was charged with first-degree murder under the "torture" provision of Penal Law § 125.27(1)(a)(x) for the fatal beating and strangling of his girlfriend, Danielle Thomas, in their Queens apartment in June 2012. He did not deny killing Thomas, but raised the affirmative defense of extreme emotional disturbance (EED) at trial. The evidence showed the Bohn's fatal assault on the victim lasted at least 80 minutes, a 3-minute portion of which was recorded in a voicemail message left when a call was accidentally made from Thomas's phone to one of Bohn's friends. In the recording, Thomas can be heard screaming, moaning and pleading for mercy, while Bohn angrily taunts and mocks her. Bohn repeatedly demanded information about an unknown phone number he found on Thomas's phone, while she repeatedly denied any knowledge of the phone call. The victim's injuries included broken ribs, a lacerated liver and a fractured trachea. Bohn was convicted of first-degree murder and lesser charges and was sentenced to life without parole.

He argued on appeal that the prosecution failed to establish all of the elements of the torture-murder statute, which applies to intentional murders in which the defendant "acted in an especially cruel and wanton manner pursuant to a course of conduct intended to inflict and inflicting torture upon the victim prior to the victim's death. As used in this subparagraph, 'torture' means the intentional and depraved infliction of extreme physical pain; 'depraved' means the defendant relished the infliction of extreme physical pain upon the victim evidencing debasement or perversion or that the defendant evidenced a sense of pleasure in the infliction of extreme physical pain...." In particular, Bohn argued there was no evidence that he "relished" or took "pleasure" in inflicting pain.

The Appellate Division, Second Department found there was sufficient evidence to support the conviction and affirmed, without discussing specific elements of the torture-murder provision. The court also rejected Bohn's claims that Supreme Court improperly denied his for-cause challenges to three prospective jurors and that it erred by qualifying a prosecution rebuttal witness as an expert on his EED defense.

Bohn argues, "The evidence here was insufficient to prove the torture mens rea beyond a reasonable doubt.... Both the defense's and the People's experts agreed that appellant sounded angry on the voicemail, and his actual statements demonstrated rage at Thomas for what he perceived as her disloyalty for calling an unknown number on her phone. But far from demonstrating appellant was deriving pleasure, the voicemail suggested appellant continued to injure Thomas to obtain information relating to that number and to punish her for deceiving him.... Thomas's injuries, blunt force traumas with manual strangulation, also failed to suggest appellant enjoyed inflicting them. There was no evidence she was brutalized for hours on end, no weapons were used, and no acute sadism, such as sexual or fetishistic violence, was involved.... If Thomas's blunt-force trauma injuries – all too common in one-on-one intentional murders – established an intent to torture under [section 125.27(1)(a)(x)], it would automatically convert numerous cases to first-degree murders-by-torture, setting a da ngerous precedent."

The prosecution argues "the statute and the legislative history do not confine torture murder to a limited set of scenarios where only the most brutal or macabre of murders justify a conviction" and, even if the law is limited to "uncommon" crimes, "statistics show that murder by prolonged beating and choking is an uncommon form of homicide.... The evidence also established that defendant relished the infliction of pain upon Danielle and that he derived a sense of pleasure in the infliction of extreme physical pain. Defendant continued to inflict extreme physical pain upon Danielle and taunt her despite her pleas for mercy and obvious suffering, thus allowing a reasonable factfinder to conclude that defendant enjoyed inflicting pain upon her.... [I]t is of no moment that defendant may also have tortured Danielle to garner information about a number he found on her phone. It is well-established that individuals may commit crimes with more than one purpose in mind, and these purposes (pleasure and information gathering) are not mutually exclusive."

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For respondent: Queens Assistant District Attorney Christopher Blira-Koessler (718) 286-5988

State of New York
Court of Appeals

To be argued Wednesday, February 14, 2024

No. 23 People v Farod Mosley

A police surveillance camera recorded video of a man firing three shots from a handgun into the driver's side of a red van on a Syracuse street in June 2015. The two brothers in the van fled the scene, did not report the incident to police, and were unable or unwilling to identify the shooter. No other eyewitnesses came forward, leaving the poor quality surveillance video as the key evidence in the case. County Court allowed a Syracuse police detective -- who had met Farod Mosley for the first time seven months after the shooting incident, when he was arrested on unrelated charges in January 2016 – to identify Mosley as the gunman in the video. The court found the detective "has an extensive basis of knowledge for making an identification of Mr. Mosley." Mosley was convicted of two counts of second-degree criminal possession of a weapon, one count of reckless endangerment, and sentenced to 15 years in prison.

The Appellate Division, Fourth Department affirmed in a 3-2 decision, ruling the trial court did not abuse its discretion in permitting the detective's identification testimony "because the People presented evidence establishing that the police detective was familiar with defendant based on numerous prior interactions with defendant over the course of more than a year, during which time the police detective observed defendant's appearance, body language, demeanor, and gait. Thus, there 'was some basis for concluding that the [police detective] was more likely to identify defendant correctly than was the jury'.... Also, the court properly concluded that the police detective would be more likely to identify defendant ... because of the 'poor quality of the surveillance [video]'" It said "the court properly instructed the jurors that, inter alia, the police detective's testimony should not automatically be accepted and that the identity of the shooter was a question of fact for the jury...."

The dissenters argued the lower court erred in allowing the detective's identification. "During voir dire, the police detective testified that he interacted with defendant at a police station, where he 'sat in rooms' with defendant, 'walked side by side' with him on occasion, and viewed photographs of him. The police detective could recall, however, only a single day on which these interactions took place and conceded that he did not recall ever having a 'street interaction[]' with defendant. Thus..., there was an insufficient basis on which to conclude that the police detective was more likely than the jury to correctly identify the person in the poor quality surveillance video." They said the detective's court-approved testimony that he had known Mosley for about a year and a half "overstated the police detective's familiarity with defendant and thus deprived the jury of the ability to independently assess the police detective's basis for making the identification and determine whether to accept or reject that testimony."

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State of New York
Court of Appeals

To be argued Wednesday, February 14, 2024

No. 24 People v Harvey Weinstein

Hollywood producer Harvey Weinstein was found guilty of sexually assaulting two women in New York – a conviction of first-degree criminal sexual act for forcibly performing oral sex on M.H. at his Soho apartment in 2006 and a conviction of third-degree rape for having non-consensual intercourse with J.M. at a midtown Manhattan hotel in 2013. Weinstein was sentenced to 23 years in prison. In addition to M.H. and J.M., a third complainant, A.S., testified at trial about her alleged rape by Weinstein in 1993 as a predicate for two counts of predatory sexual assault, of which Weinstein was acquitted. Three other women, who had also been aspiring actors, were permitted to testify that Weinstein had sexually assaulted them. All of these witnesses had previously expressed hopes that Weinstein could help further their entertainment careers, or fears that he could impede them. The Appellate Division, First Department affirmed the judgment.

Weinstein argues the admission of such testimony about uncharged crimes deprived him of a fair trial by tending to show he had a propensity for committing the charged crimes, without having any valid purpose. The Appellate Division ruled the evidence was admissible to prove Weinstein's intent, to show that he "knew that a woman would not consent to having sex with him merely as a quid pro quo for the assistance he could provide them in their professional career," and to provide context explaining why the complainants maintained cordial relationships with him after the assaults. Weinstein also challenges the trial court's ruling that, if he took the stand, prosecutors could cross-examine him about 28 uncharged sex offenses and other bad acts spanning nearly 30 years. Weinstein did not take the stand and he contends the ruling deprived him of his right to testify on his own behalf.

Weinstein argues the third-degree rape charge was time-barred because it was filed 68 days after the five-year statute of limitations expired and the trial court improperly applied CPL 30.10(4)(a)(I) to extend it. The statute tolls the running of the statute of limitations for periods after commission of the crime during which "the defendant was continuously outside this state," and the prosecution maintained Weinstein had been outside of New York for 264 days. The Appellate Division rejected his claim that the tolling statute does not apply to New York residents like him, saying the statute does not distinguish between residents and nonresidents.

Weinstein also claims he was deprived of a fair trial by the denial of his for-cause challenges to a juror, before and after she was sworn in, who he says falsely denied during voir dire that her soon-to-be published novel was about "predatory older men" and their relationships with younger women. The Appellate Division said he failed to establish that the juror was dishonest about the nature of her novel or that its subject matter indicated that she would be biased against him. The court concluded that it was "not obvious ... that she was grossly unqualified from jury service."

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