State of New York Court of Appeals

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.

To be argued Thursday, February 19, 2015

No. 50 People v Rebecca Guthrie

A police officer for the Village of Newark saw Rebecca Guthrie drive past a stop sign without stopping as she left a supermarket parking lot in September 2009. After the officer pulled her over for the apparent traffic violation, he determined that Guthrie was intoxicated and charged her with failure to stop at a stop sign and driving while intoxicated.

In Newark Village Court, Guthrie moved to suppress the evidence and dismiss the charges due to lack of probable cause for the traffic stop. She argued the stop sign was not legally valid because it had not been authorized by the Newark Village Board, as required by Vehicle and Traffic Law § 1100(b). The court granted her motion, saying that because the stop sign was not properly registered, there was no violation for failing to stop and the resulting DWI evidence must also be suppressed.

On appeal, Wayne County Court affirmed, ruling that the officer's reasonable belief that Guthrie violated a traffic law did not provide probable cause for stopping her because the stop sign was unauthorized. "Certainly, the police officer here was acting in good faith.... Nevertheless, as he is acting for the state, his good faith can not be used to blink away any irregularities in the laws he is attempting to enforce.... [A]part from the failure to abide the unauthorized stop sign, there is nothing in the record to suggest that the circumstances observed by the officer before he stopped defendant's vehicle implicated issues of public safety or other legal violations warranting further inquiry." Since the stop was unjustified, it said, the exclusionary rule required suppression of the DWI evidence.

The prosecution argues the officer's reasonable belief that Guthrie ran the stop sign was enough to justify the stop. "An officer is justified in stopping an automobile where the vehicle does not stop at a stop sign.... The officer observed what he reasonably believed to be a violation of the vehicle and traffic law. Even though the defendant could not be prosecuted for the alleged stop sign violation..., it did not make a permissible stop of the defendant's vehicle invalid." The prosecution says the officer was entitled to rely on the presumption in VTL § 1110(d) that "official traffic-control devices" have been "placed by the official act or direction of lawful authority."

For appellant: Wayne County Assistant District Attorney Bruce Rosekrans (315) 946-5905
For respondent Guthrie: Andrew D. Correia, Lyons (315) 946-7472

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To be argued Thursday, February 19, 2015

No 34 People v Paul Williams *(papers sealed)*

Paul Williams's former girlfriend, the mother of his two children, accused him of sexually assaulting her when he visited her apartment in the Town of Salina in August 2008. Williams testified before an Onondaga County grand jury that the sexual activity was consensual.

At trial, the prosecutor elicited testimony from a detective who questioned Williams after his arrest that Williams refused to answer or remained silent when asked if he had forced his way in to the complainant's apartment, if he had sexual contact with her, and similar questions. The prosecutor commented on his post-arrest silence in her opening and closing statements. In its jury charge on sexual abuse, County Court told jurors they could find the element of "forcible compulsion" based on evidence of either physical force or an express or implied threat. Williams was convicted of first-degree sexual abuse and third-degree rape and was sentenced to seven years in prison.

The Appellate Division, Fourth Department affirmed the convictions. It agreed with Williams that the prosecutor's comments on his post-arrest silence were improper and that "the court erred in admitting testimony that he refused to answer certain questions and remained silent with respect to others," but it found that "any such errors were 'harmless beyond a reasonable doubt' inasmuch as there is 'no reasonable possibility that the error[s] might have contributed to defendant's conviction'...." It also found the trial court erred in instructing the jury on sexual abuse because the indictment and bill of particulars charged him with committing the crime by physical force, while the instructions permitted to jury to convict him if it found he used express or implied threats. However, because there was no evidence that Williams used threats to carry out the assault, the court found there was no significant risk the jury convicted him on that uncharged theory. It rejected his claim that the trial court erred in denying his request to use a peremptory challenge to strike a prospective juror after both sides had accepted the juror and the court declared jury selection complete.

Williams argues the trial court erred by allowing the prosecutor to question a police witness about his post-arrest silence and to comment on his silence, and further erred by refusing to provide a limiting instruction. "This case effectively came down to the jury deciding whether Mr. Williams or complainant was more credible," he says. The testimony and comments "bore directly ... upon Mr. Williams' credibility with respect to the central issue of whether the sexual encounter was consensual.... The evidence in this case cannot fairly be called overwhelming, and ... it cannot be said that there was no reasonable possibility that the error affected the jury's verdict." He argues the improper jury charge on sexual abuse requires reversal because "there was ample evidence from which the jury could have found that forcible compulsion was effectuated through the use of an implied threat." He also says the denial of his request to use a peremptory challenge was reversible error.

For appellant Williams: Piotr Banasiak, Syracuse (315) 422-8191 ext. 0137
For respondent: Onondaga County Chief Asst. District Atty. James P. Maxwell (315) 435-2470

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To be argued Thursday, February 19, 2015

No. 52 People v Kharye Jarvis

Charged with the 1991 shooting deaths of Sherrill Prather and Robert Horn, Jr. in Rochester, Kharye Jarvis was convicted after a jury trial of two counts of second-degree murder and sentenced to consecutive terms of 25 years to life in prison. The Appellate Division, Fourth Department affirmed the judgment on direct appeal. In 2012, Jarvis moved for a writ of error coram nobis, claiming his appellate counsel had been ineffective in failing to argue on direct appeal that he received ineffective assistance of trial counsel. The Fourth Department granted the writ, vacated its prior order, and considered his appeal de novo.

In 2014, the Appellate Division reversed Jarvis' convictions and granted a new trial in a 3-2 decision, finding his trial counsel "committed two serious errors that rendered his representation ineffective. The first error, which was sufficiently egregious by itself to deny defendant a fair trial, was defense counsel's inexplicable failure to object to testimony that he had successfully sought to preclude. Defense counsel obtained a ruling from County Court precluding the People ... from questioning a certain prosecution witness about an alleged threat by defendant to shoot her" if she implicated him in the murders. "Nevertheless, defense counsel failed to object or move for a mistrial when the prosecutor ... elicited that very testimony from the witness. We conclude that 'defendant has demonstrated the absence of any strategic or other legitimate explanation for his attorney's failure to object... "Compounding the ... error was defense counsel's use of a flawed alibi defense," in which Jarvis's girlfriend and her mother testified that he was at their apartment at the time of the murder -- late on a Monday night and early Tuesday morning. The prosecutor asked the mother about a television show she was watching, which he then proved aired on Fridays, not Mondays. "We conclude that presenting an alibi defense for the wrong day of the week ... constitutes ineffective assistance of counsel...."

The dissenters said Jarvis failed to show there was no "strategic or other legitimate explanation" for his attorney's failure to object to precluded testimony by a prosecution witness who said Jarvis threatened her or for the alibi he presented. "For instance, defense counsel may have decided not to object in order to avoid focusing the jury's attention on the testimony of the witness.... [H]e may have sought to use the testimony of the witness to defendant's advantage by calling attention to her inability to recall the threat...; or, he may have made a tactical decision to allow the prosecutor to elicit testimony concerning the threat on direct examination rather than on rebuttal, if defense counsel suspected that he might be forced to open the door to the testimony on cross-examination of the witness." Regarding the alibi, they said three witnesses testified Jarvis was with them at the time of the crime and "the prosecutor showed a single discrepancy..., i.e., that the television show that defendant was purportedly watching, according to ... one of the three alibi witnesses, was not airing at the time that the witness specified.... [T]he remaining two alibi witnesses did not tie their testimony to the television show. Thus..., the prosecutor did not conclusively establish that the alibi was false; rather, that was an issue for the jury to resolve."

For appellant: Monroe County Assistant District Attorney Geoffrey Kaeuper (585) 753-4674
For respondent Jarvis: William Pixley, Rochester (585) 410-8022