State of New York Court of Appeals

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To be argued Tuesday, May 30, 2017

No. 75 **Aristy-Farer v State of New York**
New Yorkers for Students' Educational Rights ("NYSER") v State of New York

The plaintiffs -- parents of public school students in New York City and New Yorkers for Students' Educational Rights (NYSER), whose members include parents and school districts from around the state, the New York State PTA and other advocates -- brought these actions against the State, the Governor and education officials, arguing the State has chronically underfunded public schools and failed to provide students with the "sound basic education" mandated by the Education Article of the State Constitution. They say the State has failed to comply with this Court's three prior rulings on constitutionally required financial aid for education in Campaign for Fiscal Equity v State of New York -- CFE I (86 NY2d 307) in 1995; CFE II (100 NY2d 893) in 2003; and CFE III (8 NY3d 14) in 2006.

After CFE III was decided, the State adopted a new school funding formula, Foundation Aid, in the Budget and Reform Act of 2007, which was meant to increase State aid for school operations statewide by $5.49 billion over four years. The Foundation Aid was fully distributed to school districts in the first two years, 2007-2008 and 2008-2009, but in the wake of the 2008 recession the State eliminated the planned increase for 2009-2010. The State then reduced the amount of Foundation Aid for 2010-2011by adopting the "gap elimination adjustment," which resulted in cumulative reductions of about $4 billion through 2013-2014. In the 2011-2012 budget, the State limited increases in education aid to no more than the increase in statewide personal income reported for the preceding year. And in the 2012-2013 budget, the State imposed a tax cap requiring a supermajority of school district voters to approve a property tax increase of more than 2 percent. The plaintiffs say that, since the 2008 recession, "the State has abandoned its constitutional reform efforts and has further cut and frozen State aid without responding to actual student needs" in violation of the Education Article.

Supreme Court denied motions to dismiss the suits and the Appellate Division, First Department largely affirmed, finding the plaintiffs stated a claim that the State failed to meet its obligations under the Education Article and CFE III. It said the "core holding" of CFE III "was an unambiguous declaration that the State Constitution required education spending to be at least $1.93 billion higher for the City of New York (and, by extension, at least $2.45 billion statewide).... NYSER plausibly alleges that the net effect of changes in educational funding has been to drop total state education aid below the CFE floor." It said an Education Article claim need not allege educational deficiencies in "each and every district in the state. The state educational funding system is an interconnected web" and "actionable deficits identified in one district will require modification of the formula, necessarily affecting calculation of funding for all districts.... [I]t is enough that the plaintiffs have adequately alleged systemic deficiencies in at least one or two districts -- New York City and Syracuse."

The State contends the plaintiffs' claims relating to all school districts other than New York City and Syracuse must be dismissed due to their failure to make specific allegations of educational deficiencies in those districts. It says, "As this Court has repeatedly held, district-specific allegations of serious educational deficiencies are a core, indispensable element of an Education Article claim." It also argues the plaintiffs failed to state a claim based on the State's failure to maintain funding levels provided in the Foundation Aid formulas or those endorsed in CFE III. "The statutory funding formulas were designed to surpass constitutional requirements, not to establish a constitutional minimum for any district, much less for every district. And CFE III determined only that a particular funding calculation was reasonably designed to remedy specific educational deficiencies in New York City alone; it thus did not establish a strict constitutional minimum even in New York City, much less any other district."

For appellants State et al: Senior Assistant Solicitor General Andrew W. Amend (212) 416-8020
For respondents NYSER & Aristy-Farer et al: Michael A. Rebell, Manhattan (646) 745-8288

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No. 76 People v Darrell Spencer

Darrell Spencer was charged with murder for fatally stabbing Jamia Hazel in his Bronx apartment in September 2009. Spencer's girlfriend Erena Willis directed police officers to where Hazel's body lay in an alley and, after she admitted helping him remove it, they went to his apartment and arrested him when he answered the door. Spencer admitted inviting Hazel to his apartment, but initially denied killing her. The next day, he told detectives that Hazel attacked him with a knife while they were both high on marijuana and he stabbed her in self-defense. Willis testified against him at trial. Spencer also testified, saying Willis killed Hazel out of jealousy. Supreme Court denied his motion to suppress his prior statements, crediting police testimony that he had voluntarily stepped into the hallway when he was arrested, and denied his request to instruct the jury on intoxication.

On the fourth day of jury deliberations, after the alternate jurors had been discharged, the foreperson asked the court to excuse her and explained, "I'm not sure that I'm able to separate my emotions from the case...." The court said that "you have to do that. You have to separate your emotions.... [The case] has to be decided on the evidence and the law as you find it to be. And I know it's difficult to be a juror but ... we've all put [in] a lot of time, a lot of effort, and there's no way that we can go forward without you." The juror said, "I thought I would be able to but it is my duty to let you know that I haven't been able to.... So is it just that I make a decision based on my emotions just to get it out of the way?" The court replied, "No, no I wouldn't ask you to make a decision based on your emotions," urged her to "put aside, to the extent that you can, your emotion and make a decision" as to "whether or not the People have proven Mr. Spencer's guilt beyond a reasonable doubt." Defense counsel moved for a mistrial after the juror left the room, saying she was grossly unqualified. The court denied the motion. Spencer was acquitted of murder, but convicted of first-degree manslaughter and sentenced to 25 years in prison.

The Appellate Division, First Department affirmed on a 3-1 vote, saying "[T]he trial court's interactions with the juror..., consisting of some 10 transcribed pages, shows that the court patiently listened to the juror and tactfully asked her probing questions to determine whether, for some reason, she could not be impartial.... The juror never expressed an inability to deliberate fairly and render an impartial verdict.... After the court listened to her concerns, and reassured her that she could do the job that she had taken an oath to do, the juror told the court that she could and would decide the facts and follow the court's instructions to reach a verdict...."

The dissenter said, "Because the trial court failed to conduct a tactful and probing inquiry to ascertain whether a juror was capable of rendering an impartial verdict and because the court, in further instructing the jury, failed to emphasize the need to arrive at a verdict without requiring any single juror to surrender her conscientious belief, the record does not afford an adequate basis for this Court to conclude that the verdict was not the result of coercion, and a new trial is required." He said the trial court's "predominant concern was not determining whether the juror was 'grossly unqualified' but was to avoid declaring a mistrial at all costs."

For appellant Spencer: Susan H. Salomon, Manhattan (212) 577-2523 ext. 518
For respondent: Bronx Assistant District Attorney Eric C. Washer (718) 838-7246

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To be argued Tuesday, May 30, 2017

No. 77 Myers v Schneiderman

The plaintiffs -- physicians, terminally ill patients, and End of Life Choices New York, an advocacy group -- brought this action against Attorney General Eric Schneiderman seeking a declaration that New York's "assisted suicide" statutes, Penal Law § 120.30 and § 125.15(3), do not apply to physicians who provide "aid-in-dying" care to terminally ill, mentally competent adults who choose to end their lives. Section 120.30 provides that a person is guilty of "promoting a suicide attempt," a class E felony, "when he intentionally causes or aids another person to attempt suicide." Section 125.15(3) provides that a person is guilty of second-degree manslaughter, a class C felony, when "[h]e intentionally causes or aids another person to commit suicide." Alternatively, if the statutes apply to aid-in-dying provided by physicians, the plaintiffs sought a declaration that enforcement of the statutes would violate the Due Process and Equal Protection Clauses of the New York State Constitution. They say, "The patients seek to exercise control and avoid loss of dignity and unbearable suffering in the final stages of dying by having the option to obtain from their physicians a prescription for medication they could ingest to achieve a peaceful death -- a practice know as aid-in-dying."

Supreme Court dismissed the suit and the Appellate Division, First Department affirmed, declaring that Penal Law §§ 120.30 and 125.15 "provide a valid statutory basis to prosecute licensed physicians, who provide aid-in-dying," and that such enforcement does not violate the State Constitution. Based on the "straightforward meaning" of the word "suicide" in the statutes, the act of "taking one's own life voluntarily," the statutes apply to aid-in-dying, it said. "Whatever label one puts on the act that plaintiffs are asking us to permit, it unquestionably fits that literal description, since there is a direct causative link between the medication proposed to be administered by plaintiff physicians and their patients' demise." Regarding the constitutional claims, the court relied on the U.S. Supreme Court's 1997 rulings in Vacco v Quill (521 US 793) and Washington v Glucksberg (521 US 702) that enforcing such statutes against physicians who prescribe lethal medication for terminally ill patients does not violate federal equal protection or due process rights. While New York recognizes "a patient's right to refuse medical treatment," the Appellate Division said, that does not apply to "the affirmative act of taking one's own life."

The plaintiffs argue the Appellate Division erred in applying "a dictionary definition of 'suicide'" and "a 'literal' approach to the Statute that would make criminal many other end-of-life treatments that are lawful and practiced routinely in New York." They say "aid-in-dying is distinct from suicide" because "it is a medically and ethically appropriate treatment option for patients facing unbearable suffering in the final stages of the dying process" and because "the death of a person who chooses aid-in-dying is caused by the patient's underlying terminal illness." "New York has long recognized a broad fundamental right to self-determination with respect to one's body and to control the course of one's medical treatment," a right that "encompasses a patient's right to choose aid-in-dying" or "other end-of-life options," they say. In the 20 years since Vacco was decided, "the Supreme Court has recognized that evolving societal views influence the content of fundamental rights."

For appellant plaintiffs: Edwin G. Schallert, Manhattan (212) 909-6000
For respondent Scheiderman: Deputy Solicitor General Anisha S. Dasgupta (212) 416-8019