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 or gspencer@nycourts.gov.

To be argued Tuesday, February 12, 2019

No. 11 Andryeyeva v New York Health Care, Inc.
No. 12 Moreno v Future Care Health Services, Inc.

Plaintiffs – home health care attendants for elderly and disabled clients – worked at the clients' residences in 24-hour shifts. The attendants in the Andryeyeva action were paid an hourly rate for the 12 daytime hours of their 24-hour shift and a flat rate for the 12 nighttime hours. The attendants in the Moreno action were paid flat rates per shift.

The attendants commenced these putative class actions against their employers contending that they were entitled to the minimum wage for each hour of their 24-hour shifts and their employers' payment practices violated the Labor Law and 12 NYCRR 142-2.1(b) because it resulted in a regular hourly wage that was below the minimum wage. Employers contended that they were not required to pay the attendants for each hour of a 24-hour shift because they were permitted to exclude 8 hours of sleep time and 3 hours of meal time from the wages, so long as that time for sleep and meals was actually afforded.

In each case, the Appellate Division, Second Department held that the attendants were entitled to be paid the minimum wage for all 24 hours of their shifts, regardless of whether the attendants were afforded opportunities for sleep and meals. Employers argue that the economic model of the home healthcare industry is structured in reliance on the Department of Labor's interpretation of 12 NYCRR 142-.21(b) that, according to employers, permits payment to home health care attendants for 13 hours of a 24-hour shift, excluding 11 hours for sleeping and taking meal breaks. The attendants counter that employers paid them an unlawfully low wage for those shifts that amounted to less than the minimum wage for each of the 24 hours where the plaintiff was at the client's residence.

No. 11 For appellants New York Health Care et al: Sari E. Kolatch, Manhattan (212) 586-5800
For respondents Andryeyeva et al: Jason Rozger, Manhattan (212) 509-1616
For amicus curiae Dept. of Labor: Deputy Solicitor General Steven C. Wu (212) 416-6073
No. 12 For appellants Future Care Health Services et al: Aaron C. Schlesinger, Manhattan (212) 382-0909
For respondents Moreno et al: Michael J.D. Sweeney, Kingston (845) 255-9370

State of New York
Court of Appeals

To be argued Tuesday, February 12, 2019

No. 13 People v Omar Alvarez

In 1994, Omar Alvarez and 38 others members of a violent drug trafficking organization operating in Manhattan were charged with various crimes, including a 1993 shooting that killed one teenager and injured two others. Alvarez was convicted of a variety of crimes including murder, attempted murder, conspiracy and assault and was sentenced to an aggregate prison term totaling 66 2/3 years to life. The Appellate Division affirmed his conviction (People v Alvarez, 275 AD2d 679 [2000]).

In 2017, Alvarez filed a petition for a writ of error coram nobis in the Appellate Division, First Department, seeking to vacate the Appellate Division order affirming his conviction on the ground that he was denied the right to effective assistance of appellate counsel. The Appellate Division denied the writ of error coram nobis.

Alvarez argues that the writ should be granted because, among other things, assigned appellate counsel failed to seek a sentence reduction in the interest of justice at the Appellate Division. In response, the People argue that any request for a sentence reduction in the interest of justice had little or no chance of success, given that the sentence reflected the heinous crimes for which Alvarez was convicted, his refusal to express remorse or accept responsibility for his crimes, and his extremely poor prognosis for favorable future social adjustment.

For appellant Alvarez: Richard M. Greenberg, Manhattan (212) 402-4100
For respondent: Manhattan Assistant District Attorney Yan Slavinskiy (212) 335-9000

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To be argued Tuesday, February 12, 2019

No. 14 Matter of Madison County IDA v State of New York Authorities Budget Office

In 2013, the Empire State Development Corporation notified the Madison County Industrial Development Agency (MCIDA) that MCIDA had been awarded a grant of up to $96,000 to assist Ciotti Enterprises in building and operating a new construction and demolition materials recycling facility. The terms of the grant provided that if Ciotti failed to complete the project or otherwise violated certain terms of the grant, MCIDA would be required to repay some or all of the grant funds or penalties. In an admitted effort to shield itself from liability, MCIDA incorporated Madison Grant Facilitation Corporation as a local development corporation for the purpose of accepting the grant. The State of New York Authorities Budget Office determined that MCIDA was not authorized to create Madison Grant as its subsidiary.

MCIDA and Madison Grant argue that the General Municipal Law expressly authorizes Industrial Development Agencies (IDAs) to do all things "necessary or convenient" to carry out their purposes and exercise the powers expressly given to them, including to accept and use grants. The Budget Office argues that an IDA's authority to create a subsidiary to accept grants cannot be implied from the "necessary or convenient" language in the General Municipal Law and such an interpretation of the law would impair the transparency and public accountability required for the use of public funds.

For appellants MCIDA et al: Charles W. Malcomb, Buffalo (716) 856-4000
For respondents Budget Office et al: Assistant Solicitor General Robert M. Goldfarb (518) 776-2015