State of New York
Court of Appeals

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To be argued Thursday, February 14, 2019

No. 18 Ajdler v Province of Mendoza

In 1997, the Argentine Province of Mendoza issued bonds in the principal amount of $250 million with a September 4, 2007 maturity date. Moshe Marcel Ajdler held $7,050,000 of the bonds. Governed by New York law, the bonds were to bear 10% annual interest from September 4, 1997, payable bi-annually. The interest would accrue from and include the most recent date to which interest had been paid or duly provided for until payment of the principal was made or duly provided for. Each bondholder had the right to receive payment of the principal of and interest on its bond on the stated maturity date. Further, "[a]ll claims against [Mendoza] for payment of principal of or interest . . . on or in respect of the [b]onds [would] be prescribed unless made within four years from the date on which such payments first became due."

On June 30, 2004, Mendoza offered the bondholders the option to exchange their bonds for new securities paying a lower interest rate and maturing in 2018. A majority of bondholders accepted the exchange offer. Ajdler did not. On August 23, 2004, Mendoza announced that it would make no further interest payments on the bonds. Thus, the last interest payment Ajdler received on his bonds was that for March 2004. He received no interest payments thereafter, nor did he receive payment of principal on the bonds' September 4, 2007 maturity date. Nearly a decade later, on March 1, 2017, Ajdler commenced this contract action in the Southern District of New York, asserting Mendoza failed to repay principal upon the maturity date and pay interest on that principal after March 2004. As to the latter, Ajdler alleged that interest continued to accrue on the bonds, even after their maturity date, for as long as the principal remained unpaid.

The United States District Court for the Southern District of New York granted Mendoza's motion to dismiss the complaint as time-barred, stating "the [b]onds matured on September 4, 2007, at which time principal became due. In addition, the interest on the [b]onds became due biannually between September 4, 2004 and September 4, 2007. Accordingly, Ajdler's claims for both principal and interest are untimely." On appeal to the United States Court of Appeals for the Second Circuit, the Second Circuit certified the following questions to this Court: "(1) If a bond issuer remains obligated to make biannual interest payments until the principal is paid, including after the date of maturity…, do enforceable claims for such biannual interest continue to accrue after a claim for the principal of the bonds is time-barred?" and (2) "If the answer to the first question is 'yes,' can interest claims arise ad infinitum as long as the principal remains unpaid, or are there limiting principles that apply?"

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To be argued Thursday, February 14, 2019

No. 19 People v Carlos Tapia

In the early morning hours of November 2, 2008, a police sergeant and lieutenant were driving in the Bronx and observed an altercation outside a bar. Following their intervention, Carlos Tapia was charged with, among other crimes, attempted assault in the first degree on the theory that he, acting in concert with another, and with intent to cause serious physical injury, attempted to cause serious physical injury to the victim by means of a deadly weapon or dangerous instrument, to wit, a sharp object.

At a jury trial, the victim testified that he was waiting for a taxi outside the bar when he felt someone hit him from behind. The victim identified two assailants and also testified that Tapia and the other assailant kicked him and slammed him against cars, and that at some point, he felt "something warm" running down his face and he realized he had been cut, but he did not see what had been used to cut him. One of the doctors who treated the victim at the hospital testified that his lacerations were "potentially life threatening" and were consistent with "being struck with a sharp cutting instrument" such as a knife, box cutter, or a piece of glass if it "had the right edge."

The police sergeant testified that he saw the victim be “body-slammed” and he then saw Tapia drag the victim between two parked vehicles. According to the sergeant, Tapia did not have any weapons, but there was a shattered beer bottle on the sidewalk next to where he saw Tapia and the victim. The sergeant admitted on cross-examination that he did not see Tapia cut the victim.

The People produced the police lieutenant, but informed the trial court that he had been retired for over a year and did not remember anything about the incident. Over Tapia’s objection, the trial court permitted the People to introduce the lieutenant’s grand jury testimony as a past recollection recorded.

Tapia argues that the evidence was insufficient to support his conviction of attempted assault in the first degree, inasmuch as "the evidence failed to establish beyond a reasonable doubt, directly or by inference circumstantially, that defendant carried a dangerous instrument, cut the victim's face with it, or was aware that the other attacker intended to or was cutting the victim with such an instrument.” He further asserts that the introduction of the lieutenant’s grand jury testimony violated the Confrontation Clause and the criminal procedure law. The People counter that Tapia’s conviction for attempted assault in the first degree, under a theory of acting in concert, was proven beyond a reasonable doubt, as the evidence supported the conclusion that either Tapia or the co-assailant cut the victim or, if the co-assailant did the cutting, Tapia continued to participate in the attack after the co-assailant cut the victim. The People further assert that portions of the lieutenant’s grand jury testimony was properly admitted as a past recollection recorded to supplement his in-court testimony, which was subject to cross-examination.

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State of New York
Court of Appeals

To be argued Thursday, February 14, 2019

No. 20 People v Timothy Martin

Pursuant to a search warrant, the police conducted a search of an apartment in Manhattan. Inside, officers found Timothy Martin sleeping on a mattress on the floor of a bedroom containing drugs and items associated with drug sales. Martin was alone in the bedroom with the drugs. A hospital bill addressed to Martin at the apartment and clothing that apparently fit him were found in that bedroom.

Before reading his Miranda rights, an officer asked Martin where he lived. He responded that he lived in the apartment. This statement was later introduced into evidence, over Martin's objection, to prove his constructive possession of the drugs.

Martin argues that he was subject to custodial interrogation without first receiving Miranda warnings and the "pedigree exception" – whereby police need not administer Miranda warnings before asking routine administrative questioning "to secure the biographical data necessary to complete booking or pretrial services" (Pennsylvania v Muniz, 496 US 582) – does not apply here because the "where do you live" question was likely to elicit an incriminating response. In other words, he says, "When the police execute a search warrant for drugs in an apartment, find drugs, arrest a person found sleeping in the apartment, and then ask him where he lives, that is not an administrative question. It is investigatory." The People argue that the courts below properly applied this Court's decision in People v Rodney (85 NY2d 289) in finding that Martin's statement about his address fell within the pedigree exception. The People also assert that any error in admitting Martin's statement about his address was harmless, given that the evidence overwhelmingly established that he lived in the apartment.

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