State of New York
Court of Appeals

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To be argued Thursday, January 9, 2020

No. 9 Matter of Leggio v Devine

Tina Leggio applied to the Suffolk County Department of Social Services (DSS) to continue her Supplemental Nutritional Assistance Program (SNAP) benefits in October 2014. At that time, she was a divorced mother living with her six children, five of whom were under the age of 22. Two of those children were full-time college students. She received nearly $600 per week in child support for the five younger children, including the college students. DSS denied Leggio's application on the ground that her household income exceeded the eligibility limit for SNAP benefits. DSS did not count the college students in determining the size of her household because they were full-time students over the age of 18 who did not meet the work requirement to qualify for SNAP benefits. However, DSS did include the college students' share of child support in calculating Leggio's household income.

After a fair hearing, the State Office of Temporary and Disability Assistance (OTDA) affirmed DSS's decision to deny benefits. OTDA said the child support attributable to the two college students should be included in household income because they were not living outside the household and because child support "is paid to and under the control of the parent." It said that, "even if the child is an ineligible member due to student or employment status," support paid for that child should not be excluded from household income "simply because it is not [the child's] income.... This income is given to the parent and is under the parent's control."

The Appellate Division, Second Department confirmed OTDA's decision, although it rejected the agency's view that child support payments are income of the parent, not the child. The court said child support "is an obligation 'to the child, not to the payee spouse,'" and custodial parents "are no more than conduits of that support from the noncustodial parent to the child." However, it said Leggio's two college students "were part of the household" under federal and state regulations. "They were disqualified from receiving benefits, primarily because they do not comply with work requirements. Therefore, they could not be counted in determining the number of persons in the household, but their pro rata share of child support was includable in household income." It said 7 CFR 273.11(c) (Subsection C) "explicitly" provides for the "inclusion of income from certain specific persons who shall not be considered members of the household in determining household size," including "persons disqualified because of ... noncompliance with a work requirement."

Leggio says the Appellate Division was correct in ruling that child support is income of the child, not the parent, for determining SNAP benefits. However, she says the court erred in holding that Subsection C requires that her college students' share of child support be included in her household income "because the federal regulation that specifically addresses how the income of an ineligible student is handled for SNAP purposes" – 7 CFR 273.11(d) (Subsection D) – "expressly provides that this income 'shall not be considered available to the household with whom [the student] resides." Thus, based on the court's ruling that child support is income of the child, she says she is eligible for SNAP benefits.

OTDA argues, in part, that it "reasonably interpreted its regulations to treat the [child support] payments as [Leggio's] income, not her children's," and that the Appellate Division should have upheld the denial of benefits on that basis.

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To be argued Thursday, January 9, 2020

No. 10 People v Ganesh Ramlall

After he struck another vehicle while driving in Brooklyn in May 2012, Ganesh Ramlall was charged with three counts of driving under the influence of alcohol: two misdemeanor charges of driving while intoxicated (DWI) under Vehicle and Traffic Law §§ 1192(2) and (3), and one infraction of driving while ability impaired (DWAI) under VTL § 1192(1). In March 2013, Criminal Court granted Ramlall's CPL 30.30 motion to dismiss the misdemeanor DWI charges on speedy trial grounds, finding the prosecution had been responsible for 111 days of delay, which exceeded the 90-day time limit. However, the court denied his motion to dismiss the DWAI traffic infraction, holding that CPL 30.30 does not apply to infractions and that Ramlall's constitutional speedy trail claim under CPL 30.20 was meritless because he "alleges neither extended pretrial incarceration nor impairment of his defense." Nineteen months later, Ramlall filed a second CPL 30.20 motion to dismiss the DWAI infraction. After the court dismissed his motion in December 2014, he pled guilty to DWAI.

The Appellate Term, Second Department, 2d, 11th and 13th Judicial Districts affirmed, ruling that Ramlall's constitutional right to a speedy trial under CPL 30.20 was not violated based on the five-factor analysis adopted in People v Taranovich (37 NY2d 442). "Defendant was not incarcerated for any significant period of time and did not demonstrate that his defense had been impaired.... While there was a protracted delay, such delay 'will not, in and of itself, be sufficient to warrant the drastic measure of dismissal,'" it said, quoting Taranovich.

Ramlall argues that, because CPL 30.30 sets specific time frames for bringing felonies, misdemeanors and criminal violations to trial, but does not address non-criminal infractions, lower courts address delays in prosecuting DWAI infractions under constitutional speedy trial guarantees and Taranovich. "The absurd result is that DWAI infractions may remain pending long after the related DWI misdemeanor has been dismissed." He argues that a CPL 30.30 dismissal of related misdemeanor charges should create a presumption in favor of dismissal of a less serious infraction under CPL 30.20 and Taranovich. "Indeed, if delays warranted the actual dismissal of the DWI misdemeanors, at the very least, the same delays warrant a presumption of prejudice." The DWAI count remained pending against him for nearly two years after the misdemeanors were dismissed, with 306 days of that attributed to the prosecutors, he says. "That delay should have weighed heavily against the People instead of being excused by the court. Prejudice should have been presumed, not ignored."

The People argue that the Sixth Amendment – which provides that "[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial" – "does not apply to prosecutions for New York traffic infractions.... Because a traffic infraction is not a crime, because any punishment imposed therefor cannot be deemed a 'criminal punishment' for any purpose, and because the prosecution of a traffic infraction is a civil action, the prosecution of a traffic infraction is not a criminal prosecution." Even if the Sixth Amendment applies, they say, Ramlall "failed to establish a constitutional violation."

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For respondent: Brooklyn Assistant District Attorney Ann Bordley (718) 250-2464

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To be argued Thursday, January 9, 2020

No. 11 People v Gerald Francis

In 1988, Gerald Francis pled guilty in Manhattan to a felony charge of third-degree criminal possession of a weapon in exchange for a promised sentence of no more than one year in jail. Although he had previously been convicted of a felony drug sale charge under the name Lawrence Benjamin in 1982, making him a predicate felony offender, he was given a split sentence of six months in jail and five years probation as a first-time felony offender on the 1988 weapon conviction. In 1991, Francis pled guilty to first-degree attempted robbery under the name Bernell Gould. And finally, in 1997, he was convicted at trial of first-degree robbery under the name Lawrence Benjamin. In the 1997 case, Francis was adjudged a persistent violent felony offender, based on his prior convictions for weapon possession in 1988 and attempted robbery in 1991, and was sentenced to 23 years to life in prison.

After exhausting his appeals of the 1997 conviction, Francis brought this CPL 440.20 motion to set aside his sentence in the 1988 weapon case as illegally low because he had been improperly sentenced as a first felony offender. He acknowledges that his real goal, if he obtains a ruling that his 1988 sentence is illegal, is to move to withdraw his guilty plea on the ground that a legal sentence would violate his plea agreement and, in that way, prevent the use of his 1988 conviction as a predicate offense to enhance his 1997 sentence. Supreme Court denied his motion to set aside his 1988 sentence.

The Appellate Division, First Department affirmed, finding it was barred from reviewing Francis's claim by CPL 470.15(1), which states that an "intermediate appellate court may consider and determine any question of law or issue of fact involving error or defect in the criminal court proceedings which may have adversely affected the appellant." The court said, "[B]ecause defendant was not 'adversely affected' by the court's error in sentencing him on his 1988 conviction in this case, and, indeed, benefitted from the imposition of a lesser sentence than he would have received had he been properly adjudicated, defendant's CPL 440.20 claim must be rejected without consideration of its merits.... As we have no jurisdiction to reach the merits of defendant's claim, his argument as to the illegality of his sentence is unavailing...."

Francis argues that "the Appellate Division misconstrued the import of CPL 470.15(1) and this Court's precedents in People v LaFontaine (92 NY2d 470) and People v Nicholson (26 NY3d 813)," which "explicitly held that CPL 470.15(1) constituted 'a legislative restriction on the Appellate Division's power to review issues either decided in appellant's favor, or not ruled upon by the trial court'.... Here, appellant's CPL 440.20 motion was summarily denied by the motion court. It was not decided in appellant's favor. Therefore..., CPL 470.15(1) does not constitute a jurisdictional bar to the consideration of the merits of appellant's appeal." He also argues that, "even under the Appellate Division's misinterpretation" of the statute, he was "adversely affected" by the denial of his motion for resentencing. Had the motion court vacated his 1988 sentence, "he would have had the opportunity to withdraw his guilty plea and then taken this case to trial. Irrespective of the outcome of this trial, the vacatur of this plea conviction would have fundamentally altered appellant's present [23 year] to life sentence as a mandatory persistent violent felony offender because he would no longer have two prior predicate violent felony convictions."

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