State of New York
Court of Appeals

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To be argued Tuesday, March 23, 2021 (arguments begin at 2 p.m.)

No. 21 Protect the Adirondacks! Inc. v NYS Department of Environmental Conservation

Protect the Adirondacks! Inc. brought this lawsuit against the Department of Environmental Conservation (DEC) and Adirondack Park Agency (APA) in 2013 to halt the construction of 11 new snowmobile trails on designated Forest Preserve land in the Adirondack Park, contending the work violated the "forever wild" clause of the State Constitution (article XIV, section 1). It states that the Forest Preserve "shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged ... nor shall the timber thereon be sold, removed or destroyed." The snowmobile trails are Class II Community Connector trails, which are generally 9 feet wide on straight stretches and 12 feet wide on some curves and steep slopes. The project would result in the creation of 27 miles of new Class II trails and require the removal of 25,000 trees, including more than 6,100 trees measuring at least 3 inches in diameter at breast height (DBH). The new trails would be located near the periphery of the Forest Preserve and some existing snowmobile trails in the interior of the Preserve and in sensitive areas would be redesignated for non-motorized use or for abandonment.

Supreme Court dismissed the suit, finding the trails would neither impair the wild nature of the Forest Preserve nor result in an unconstitutional destruction of timber. It said tree cutting would not "occur to a substantial extent or material degree" and the trails "are constructed for the proper use of and access to the Preserve, and are no more out of harmony with forest lands in their wild state than the foot, horse and bicycle trails throughout the Preserve."

The Appellate Division, Third Department reversed on a 4-1 vote, ruling the tree cutting violated the timber destruction prohibition in the forever wild clause. The court said the plaintiff "failed to demonstrate how the construction of Class II trails, which have similar aspects to foot trails and ski trails and have less impact than roads or parking lots, impairs the wild forest qualities of the Forest Preserve," but held the cutting of 25,000 trees for the trials "constitutes an unconstitutional destruction of timber." Rejecting the defense argument that the word "timber" does not apply to trees smaller than three inches in diameter, it said the term "refers to all trees, regardless of size. Although tree size and maturity may be considered in determining whether a proposed project's tree cutting is substantial or material, plaintiff presented expert testimony debunking the assumption that smaller trees are necessarily young or immature; some forest trees measuring less than three inches DBH can be more than 100 years old, and smaller mature trees play an important role in the continuing ecology of the forest.... It would be anomalous to conclude that destroying 925 trees per mile of trails, or approximately 25,000 trees in total, does not constitute the destruction of timber 'to a substantial extent' or 'to any material degree'...."

The dissenter argued that "the removal of approximately 25,000 trees ... over a system of trails covering 27 miles is neither substantial nor material in the context of NY Constitution, article XIV, § 1.... With respect to the large number of seedlings and other small trees, an ecologist who testified on defendants' behalf explained that the survival rate of such trees is low in view of the closed forest canopy." He said, "Implementation of the Class II trails is also 'reasonable' in the context of" the provision because the advantages of preserving wild forest "are for everyone within the [s]tate and for the use of the people of the [s]tate.... Although these trails are designed for snowmobile use during the winter season, the State Land Master Plan points out that the trails ... 'may double as a foot trail at other times of the year.' These trails effect a reasoned balance between protecting the Forest Preserve and allowing year-round public access."

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State of New York
Court of Appeals

To be argued Tuesday, March 23, 2021 (arguments begin at 2 p.m.)

No. 22 People v Howard Powell

Howard Powell was arrested in Queens in March 2010 while in possession of crack cocaine and a pipe. He was 51 years old and had an intellectual disability, a history of psychiatric illnesses and seizures which he treated with several prescribed medications, and also a history of drug abuse. Officers took him to the 114th Precinct and questioned him about several recent robberies. Powell denied any involvement and was detained at Central Booking for the night. He was returned to the precinct the next morning and ultimately admitted in signed statements that he robbed two women at knife-point in separate incidents days before his arrest. Both victims then identified him in lineups. He was charged with two counts of first-degree robbery. Contending at a pre-trial hearing that his confessions were false, Powell said he had not taken his prescription medications on the day of his arrest, but had used cocaine and heroin. He also testified that officers retrieved his medications from his home after his arrest, but refused to give him access to them until after he confessed the next day.

At trial, Powell sought to introduce testimony of Dr. Allison Redlich, a research psychiatrist, as an expert on "the phenomena of false confession." Supreme Court denied the request after a Frye hearing, saying, "Dr. Redlich's testimony did not convince this court that an expert's testimony on the issue of false confessions is scientifically reliable." Further, the court said, "Dr. Redlich never personally examined this defendant.... [T]his court will not allow the defendant to call a witness in the area of false confessions to testify about the general nature of and situations where an individual is likely to render a false confession. This court will only permit a witness in this area to testify who has personal knowledge of this case, the circumstances under which the defendant made these alleged confessions, and this defendant's mental infirmities." The jury convicted Powell of one count of first-degree robbery, he pled guilty to the second count a short time later, and he was sentenced to 25 years to life in prison.

The Appellate Division, Second Department affirmed. "With regard to expert testimony on the phenomenon of false confessions, in order to be admissible, 'the expert's proffer must be relevant to the particular [defendant] and interrogation before the court,'" it said, citing People v Bedessie (19 NY3d 147). "Here, the defendant failed to establish that his proffered expert testimony was relevant to the specific circumstances of this case...."

Powell argues that the scientific reliability of research into false confessions was established in New York law by Bedessie, which said belief that "the phenomenon of false confessions is genuine has moved from the realm of startling hypothesis into that of common knowledge, if not conventional wisdom." Bedessie also said "in a proper case expert testimony on the phenomenon of false confessions should be admitted." Powell says Dr. Redlich established the relevance of her testimony by proposing "to testify that appellant ... exhibited a number of situational factors rendering him vulnerable to false confession: a lifelong history of psychiatric illness, profound ... cognitive impairments; and longstanding polysubstance abuse;" as well as "the 24-hour length of the custody and interrogation."

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To be argued Tuesday, March 23, 2021 (arguments begin at 2 p.m.)

No. 23 People v Kathon Anderson

Fourteen-year-old Kathon Anderson, a member of a gang called the Stack Money Goons, was sitting in the back of a city bus in Brooklyn when members of a rival gang surrounded and entered the bus in March 2014. As two of them rushed up the aisle toward him, Anderson took a gun from his backpack and fired a shot at them, which struck and killed an innocent passenger. He then chased his rivals off the bus and up the block, firing at them without hitting anyone. He was charged with murder of the passenger and attempted murder of the rival gang members.

Anderson raised a defense of justification at trial, contending he reasonably feared for his life when his rivals had him cornered on the bus. In support of his self-defense claim, he sought to admit expert testimony on the science of adolescent brain development to explain that the prefrontal cortex of adolescents is not fully developed, making them more sensitive to danger and more likely to react impulsively or aggressively to a perceived threat than would an adult.

Supreme Court denied the request, saying, "The only real relevance of this type of testimony is so the defendant, in essence, can argue that he is somehow less culpable because his brain is not fully developed and that, therefore, he should be held to a different standard than an adult because of his youth. However..., the legislature here in New York ... intended certain juveniles charged with violent crimes be treated as adults. And there simply is no juvenile standard for self-defense." The court also said "it's common knowledge that juveniles act more impulsively than adults and [are] more susceptible to peer pressure. And ... while the science might be new..., the concepts that the scientists are trying to convey that juveniles are more impulsive and not as deliberative are not beyond the ken" of jurors. Anderson was convicted of murder and attempted murder in the second degree and sentenced to 12 years to life in prison.

The Appellate Division, Second Department affirmed, saying, "The Supreme Court providently exercised its discretion in precluding the defendant from proffering expert testimony with regard to the topic of adolescent brain development, since the impulsiveness of adolescents is not a matter beyond the ken of the typical juror...."

Anderson argues that, while jurors might be aware of the impulsiveness of teenagers, "the neuroscience and psychological studies about which [the proposed expert] would have testified were beyond the typical juror's knowledge. Most people are unaware of the neuroscience research concerning adolescent brain development and also lack the understanding that an adolescent has limited ability to transcend this lack of brain development." He says the expert testimony would not have created a "juvenile self-defense standard.... Jurors are always asked to make determinations in self-defense cases that have subjective and objective components and take into account the defendant's attributes.... Unquestionably, rival gang members – who greatly outnumbered appellant – targeted and ambushed him as he rode the bus home. The primary trial issue was the reasonableness of appellant's belief that the gang members intended to use deadly physical force against him, the issue upon which [the expert] offered material expert testimony. By excluding this evidence, the court violated appellant's right to present a defense and due process."

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