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 Wednesday, September 1, 2021 (arguments begin at 2 p.m.)

No. 54 Aybar v Aybar; Ford Motor Company

Jose Aybar, Jr., a New York resident, was driving his 2002 Ford Explorer in Virginia in July 2012 when one of his tires allegedly failed, causing the vehicle to overturn and roll multiple times. Three of his six passengers died in the accident and the other three were injured. The surviving passengers and representatives of the deceased passengers brought this action in New York Supreme Court against Aybar, as the driver; and against the Ford Motor Company and the Goodyear Tire & Rubber Company, alleging that Ford negligently designed and manufactured the vehicle and Goodyear negligently designed and manufactured the tire.

The companies moved to dismiss for lack of jurisdiction under the U.S. Supreme Court's 2014 decision in Daimler AG v Bauman (571 US 117), which held that any exercise of state jurisdiction over a foreign corporation must satisfy the due process requirement that "the corporation's affiliations with the State in which suit is brought are so constant and pervasive 'as to render [it] essentially at home in the forum State,'" a condition Ford and Goodyear said was not met in their case. Ford is incorporated in Delaware and headquartered in Michigan; Goodyear is incorporated and headquartered in Ohio. The plaintiffs argued that both companies consented to the general jurisdiction of New York courts by registering to do business in the state and that both derive "substantial revenue" from such business.

Supreme Court denied the motions to dismiss, saying it had jurisdiction over Ford and Goodyear based on their registration to do business in New York and on their "systematic and continuous activity" in the state. "In New York, it has long been the rule that a foreign corporation may consent to general jurisdiction in this state under CPLR 301 by registering as a foreign corporation and designating a local agent for service of process," it said, citing the 1916 Court of Appeals decision in Bagdon v Philadelphia & Reading Coal & Iron Co. (217 NY 432). It further held that "general jurisdiction based on consent through registration and appointment survives [Daimler].... [F]oreign corporations have been on notice since 1916 that registration to conduct business in this state amounts to consent to general jurisdiction here, and they can always cancel their registration if their business interests lead them to do so."

The Appellate Division, Second Department reversed and dismissed the suit, finding the consent-by-registration rule was eliminated by Daimler. "[I]n view of the evolution of in personam jurisdiction jurisprudence, and, particularly the way in which Daimler has altered that jurisprudential landscape, it cannot be said that a corporation's compliance with the existing business registration statutes constitutes consent to the general jurisdiction of New York courts, to be sued upon causes of action that have no relation to New York...," it said. "The consent-by-registration line of cases is predicated on the reasoning that by registering to do business in New York and appointing a local agent for service of process, a foreign corporation has consented to be found in New York. Daimler made clear, however, that general jurisdiction cannot be exercised solely on such presence...." It also held, "Under the strictures of Daimler, [the companies'] contacts with New York are insufficient to permit the assertion of general jurisdiction over claims that are unrelated to any activity occurring in New York."

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For respondent Ford: Sean Marotta, Manhattan (212) 918-3000
For respondent Goodyear: Jayne Risk, Manhattan (212) 656-3328

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To be argued Wednesday, September 1, 2021 (arguments begin at 2 p.m.)

No. 55 Sassi v Mobile Life Support Services, Inc.

In this employment discrimination lawsuit, Richard J. Sassi II claims Mobile Life Support Services violated Correction Law Article 23-A and the State Human Rights Law by refusing to re-hire him after his misdemeanor conviction in 2016. In his complaint, Sassi said that before Mobile Life hired him in 2014, he informed company officials that he was facing a misdemeanor charge for allegedly making a false 911 emergency call in 2012, when he was working as a police officer in Dutchess County. He said he also informed them as his trial date approached in early 2016 and discussed the possibility of incarceration, and said he was told he would be placed on leave and be allowed to return to work as a dispatcher and emergency medical technician upon his release. When he was convicted of the misdemeanor charge and sentenced to 60 days in jail, he said the company fired him for "job abandonment." Following his release from jail, he said he sought reinstatement, but was told that Mobile Life had "previously terminated other employees who had been incarcerated" and it "had to be consistent and terminate" him.

Sassi claimed Mobile Life violated both statutes by refusing to re-hire him based solely on his conviction. Correction Law Article 23-A states that it is "unfair discrimination" to deny an employment application "by reason of the individual's having been previously convicted of one or more criminal offenses" (section 752); and section 751 states that Article 23-A "shall apply to any application by any person for ... employment at any public or private employer, who has previously been convicted of one or more criminal offenses...." The Human Rights Law (specifically Executive Law § 296[15]) states, "It shall be an unlawful discriminatory practice for any person ... to deny ... employment to any individual by reason of his or her having been convicted of one or more criminal offenses..., when such denial is in violation of" Article 23-A.

Mobile Life moved to dismiss the suit for failure to state a claim, saying the statutes apply only to convictions that occur prior to employment, not during employment. It also said Sassi's complaint did not allege that he ever made an application for employment after his conviction.

Supreme Court granted the motion to dismiss, saying the express language of the statutes "only apply to convictions that occur prior to one's employment, whereas plaintiff alleges he was first employed by defendant, after which he was convicted of a crime and incarcerated for 60 days, after which plaintiff sought to resume his employment with defendant." The Appellate Division, Second Department affirmed.

Sassi contends the statutes "apply where a former employee, whose conviction occurs during the term of his employment, is fired and then later seeks reemployment with the same employer." He says, "The statutes plainly apply to 'any application by any person' for employment. A previous employee of an employer falls into the category of 'any person,' and his request to be rehired falls into the category of 'any application.' As such, a previous employee's request to be rehired by an employer who had previously fired him is covered by the plain language of the statute. This reading also aligns with the broad public policy underlying these statutes – to provide equal employment opportunity to former offenders and to promote their successful reintegration into society, thereby reducing recidivism."

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State of New York
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To be argued Wednesday, September 1, 2021 (arguments begin at 2 p.m.)

No. 56 People v Eric Ibarguen

During a buy-and-bust operation in Queens in March 2015, a backup officer said he saw Eric Ibarguen sell heroin to the undercover buyer and chased Ibarguen into a nearby apartment, where he observed heroin in plain view. The officer arrested Ibarguen and two others who were present and then obtained a search warrant, which led to the recovery of a black jacket like the one worn by the heroin dealer and one of the pre-recorded $20 bills used in the buy. Ibarguen denied selling drugs to the undercover officer and moved to suppress the evidence seized from the apartment, arguing – as he had testified before the grand jury – that he was sitting down to dinner with friends who lived there when the police burst in without a warrant or consent and arrested them all. While he did not reside there, he argued he had standing to contest the search because he was an invited guest of two friends who lived in the apartment, which he used as his mailing address. The prosecutor argued Ibarguen lacked standing because "simply receiving mail at a location or eating dinner at a friend's residence does not confer ... a legitimate expectation of privacy."

Supreme Court denied the suppression motion without a hearing "because probable cause was found by the court when the warrant was issued. Additionally, defendant has failed to sufficiently allege standing to challenge the search...." Ibarguen was convicted at trial of criminal sale of a controlled substance in the third degree and sentenced to 8½ years in prison.

The Appellate Division, Second Department affirmed, finding the trial court properly denied the suppression motion without conducting a hearing. "The defendant failed to establish a reasonable expectation of privacy in the apartment at which he was merely a casual visitor, and thus, he lacked standing to challenge the warrantless entry and subsequent search...."

Ibarguen argues that "social guests" like him "possess a legitimate expectation of privacy in their host's homes," citing Minnesota v Carter (525 US 83). "The Appellate Division ignored this precedent, characterizing appellant as a mere 'casual visitor.' But being invited to an intimate dinner with friends is a longstanding 'social custom,' which, like staying overnight in another's home, manifests one's 'acceptance into the household,'" he said, citing Carter. "And the fact that appellant received his mail at the residence evidenced a strong connection to the premises and an inference of his frequent visitation." He says he made a sufficient showing to warrant a suppression hearing at which he could litigate his standing as a "social guest."

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