

# *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.

To be argued Thursday, September 13, 2012

## **No. 179 People v Sandy Fernandez**

In 2009, Sandy Fernandez was arrested and arraigned on an accusatory instrument charging him with aggravated unlicensed operated of a motor vehicle in the third degree. Fernandez pleaded guilty to the charge, and was convicted upon his guilty plea.

On appeal, Fernandez contended that the accusatory instrument is a complaint, and that it is jurisdictionally defective because the factual portion fails to allege facts establishing that he had reason to know that he was driving with a revoked license. The Appellate Term, Second, Eleventh and Thirteenth Districts, affirmed the judgment of conviction, stating that, “although the accusatory instrument is denominated a ‘complaint/information,’ it is a sufficient simplified traffic information since it designates the offense charged, substantially conforms to the form prescribed by the Commissioner of Motor Vehicles (CPL 100.40 [2]; Regulations of Commissioner of Motor Vehicles [15 NYCRR] § 91) and provides the court with sufficient information to establish that it has jurisdiction to hear the case . . .”

Fernandez argues that the accusatory instrument is a jurisdictionally defective misdemeanor complaint. He contends that it cannot be a sufficient simplified traffic complaint/information where the instrument alleges evidentiary facts purporting to establish the offense charged but omits facts supporting “reasonable cause” to believe that he knew or had reason to know that he was driving with a revoked or suspended license. The People argue that the accusatory information was a facially sufficient simplified traffic information, because it substantially complied with the form prescribed by the Commissioner of Motor Vehicles and designated the traffic offense charged.

For appellant: Svetlana M. Kornfeind, Manhattan (212) 577-3478

For respondent: Kings County Asst. Dist. Attorneys Leonard Joblove and Terry-Ann Corniffe (718) 250-3905

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**No. 180 Matter of Town of Walkill v Civil Service Employees Association, Inc. (Local 1000, AFSCME, AFL-CIO, Town of Walkill Police Department Unit, Orange County Local 836), et al.**

In 2006, the Court of Appeals held that police discipline in local municipalities "may not be a subject of collective bargaining under the Taylor Law" where there exists a statute pre-dating the enactment of sections 75 and 76 of the Civil Service Law and "provid[ing] expressly for the control of police discipline by local officials" (Matter of Patrolmen's Benevolent Assn. of City of N.Y., Inc. v New York State Pub. Empl. Relations Bd., 6 NY3d 563, 573). A collective bargaining agreement between the Town of Walkill and the Town's police officers requires, among other things, arbitration as the final stage of a disputed disciplinary action. In 2007, the Walkill Town Board enacted Local Law No. 2, which set forth disciplinary procedures different than those in the collective bargaining agreement, culminating in a final determination by the Town Board reviewable in a CPLR article 78 proceeding "in accord with Town Law § 155."

The individual respondents/defendants are each police officers or sergeants facing disciplinary charges. They filed requests for arbitration of those charges pursuant to the collective bargaining agreement, prompting the Town to commence these hybrid proceedings and actions seeking to stay the arbitrations and for a judgment declaring that Local Law No. 2 is valid and affords the Town the right to prescribe the manner of all police disciplinary determinations. The union and individual officers cross-petitioned to compel arbitration and counterclaimed for a judgment declaring Local Law No. 2 invalid.

Supreme Court denied the Town's petitions, granted the cross petitions and declared Local Law No. 2 invalid insofar as it was inconsistent with the disciplinary provisions of the collective bargaining agreement. Supreme Court concluded that the Court of Appeals, in Matter of Patrolmen's Benevolent Assn., "intended to limit its holding to specific laws such as the Rockland County Police Act," rather than general laws such as Town Law § 155.

The Appellate Division reversed, permanently stayed arbitration and declared that Local Law No. 2 affords the Town the right to prescribe the manner of police discipline within its jurisdiction. The court reasoned that Town Law § 155, "upon which Local Law No. 2 was based, was enacted prior to Civil Service Law §§ 75 and 76. As such, Town Law § 155 was an existing general law that committed the matter of police discipline to the Town . . . [making] the matter of discipline . . . a prohibited subject of collective bargaining . . ."

The police officers and the union argue that Matter of Patrolmen's Benevolent Assn. is a narrow public policy decision. They further argue that Civil Service Law § 76 (4) is not the basis for that decision, and the bargaining prohibition in Matter of Patrolmen's Benevolent Assn. is effected only by special state laws that supercede Civil Service Law §§ 75 and 76. They argue that, if the Appellate Division decision is affirmed, and the reasoning of Matter of Patrolment's Benevolent Assn. is extended to Town Law § 155, the matter of police discipline will be a prohibited subject of collective bargaining in all towns in the State.

For appellant: John K. Grant, Newburgh (845) 566-5526

For respondent: Joseph G. McKay, Newburgh (845) 565-1100

For amicus curiae NY State Public Empl. Relations Bd.: David P. Quinn, Albany (518) 457-2678

For amicus curiae NY State Law Enforcement Officers Union, Council 82, AFSCME, AFL-CIO, Ennio J. Corsi, Albany (518) 489-8424

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**No. 181 People v Robert C. Halter**

*(papers sealed)*

Robert C. Halter was convicted, after a nonjury trial, of sexual abuse in the first degree, rape in the second degree, criminal sexual act in the second degree, and endangering the welfare of a child.

During trial, the People sought to limit defense counsel's questioning of the victim pursuant to the Rape Shield Law (CPL 60.42), arguing that the victim's sexual contact with another person was irrelevant. County Court granted the motion in limine and, in sustaining the People's objections during trial, limited defense counsel's questioning of the victim.

The Appellate Division affirmed the conviction, concluding that it was not against the weight of the evidence and that County Court properly applied the Rape Shield Law to preclude the defense from introducing evidence of alleged prior sexual conduct of the victim. The court also said that, "[r]egardless of whether the [Rape] Shield Law applied, the connection between the proffered evidence and the victim's motive or ability to fabricate sodomy charges against defendant was so tenuous that the evidence was entirely irrelevant . . . ." The Appellate Division rejected Halter's additional arguments as unpreserved.

Halter argues that the trial court's refusal to allow the introduction of evidence establishing the primary complainant's motive to fabricate was an abuse of discretion and violated his federal and state constitutional right to confront the witness against him. Halter also argues that, by precluding defense counsel from eliciting evidence regarding the primary complainant's motive to fabricate, the trial court denied him his constitutional right to present a defense. The People argue that the trial court properly exercised its discretion in applying the Rape Shield Law to preclude questioning about victim's sexual conduct.

For appellant Halter: Timothy S. Davis, Rochester (585) 753-4213

For respondent: Monroe County Senior Asst Dist Attorney Geoffrey Kaeuper (585) 753-4674

To be argued Thursday, September 13, 2012

**No. 182 People v Lonnie Meckwood**

In 2010, Lonnie Meckwood was convicted, upon his guilty plea, of attempted robbery in the first

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degree. Before sentencing, Meckwood challenged the proposed use of a prior Pennsylvania conviction as a predicate felony for enhanced sentencing purposes. He argued that he was 18 years old when he committed the Pennsylvania crime and, had he done so in New York, he would have been eligible for youthful offender status; a youthful offender adjudication in New York would not have served as a predicate felony for an enhanced sentence.

Upon sentencing, the People presented County Court with a predicate violent felony conviction statement regarding Meckwood's Pennsylvania conviction. Meckwood did not contest the legality or constitutionality of that conviction, but he argued that the court should apply New York law and policy with respect to the application and effect of the prior conviction. County Court sentenced Meckwood as a second violent felony offender, stating "[w]hat we have is a judgment of conviction entered in Pennsylvania as an adult against this . . . Defendant . . ."

The Appellate Division affirmed the judgment of conviction, stating, "[w]here youthful offender treatment is not accorded in a foreign jurisdiction, the fact that the defendant would have been eligible for youthful offender treatment had the offense been committed in New York does not preclude the use of such conviction in New York as a predicate felony for enhanced sentencing . . ." The Appellate Division also rejected Meckwood's equal protection constitutional challenge to the provision that tolls the 10-year look-back period used to calculate whether a prior conviction qualifies as a predicate felony, reasoning that the tolling provision is rationally related to the goal of determining whether a convicted felon "can function in society in a law-abiding manner" and "time in prison has a limited value in determining whether a convicted felon can function in society as a law-abiding citizen . . ." Finally, the court rejected, as unpreserved, Meckwood's challenge to the content of the predicate felony statement filed by the People and his claim that it failed to conform with CPL 400.15.

Meckwood argues that his adjudication as a second violent felony offender directly conflicts with this Court's ruling in People v Carpenteur (21 NY2d 571 [1968]). He also contends that Penal Law § 70.04 (b) is unconstitutional because it requires application of New York law to foreign convictions to establish the elements of a felony conviction, but does not provide for or require application of the New York youthful offender statute. Meckwood contends that tolling the ten-year look-back period during periods of incarceration violates his right to equal protection of the law. Lastly, Meckwood argues that the People's statement as to predicate violent felony conviction was defective for failure to comply with CPL 400.15 (2).

For appellant Meckwood: Brent R. Stack, Valatie (518) 758-2333

For respondent: Broome County Chief Asst District Atty Joann Rose Parry (607) 778-2423