State of New York
Court of Appeals

To be argued Tuesday, November 19, 2024

No. 93 Matter of NYC Organization of Public Service Retirees, Inc. v Campion

New York City had historically offered several Medigap insurance plans to its retirees who were eligible for Medicare and it paid the monthly premiums for the plans up to a statutory cap. Senior Care was the most popular option among retirees and the City paid the full amount of its $192 monthly premium. In July 2021, the City announced its adoption of a New Medicare Advantage Plus Plan (MAPP) that it had negotiated with the Municipal Labor Committee, an association of public sector unions. MAPP would be the only premium-free option for Medicare-eligible retirees. Retired city workers could choose to remain enrolled in Senior Care, but would have to pay the full $192 monthly premium.

The NYC Organization of Public Service Retirees, Inc., and several individual retirees filed this suit against the City and its Office of Labor Relations to challenge the new MAPP plan, contending that it violated City Administrative Code § 12-126. Section 12-126(b)(1) provides, "The city will pay the entire cost of health insurance coverage for city employees, city retirees, and their dependents, not to exceed one hundred percent of the full cost of H.I.P.-H.M.O. on a category basis."

Supreme Court ruled largely for the Retirees, ruling the City could not pass on any costs within the statutory cap for health insurance plans it offers to retirees. Rejecting the City's argument that section 12-126 only requires it to pay for one insurance plan, the court said the statute "is simply unequivocal and does not use terms like 'provide' or 'offer'; rather it uses the term will pay and it provides parameters of such payment." It said the statute does not require that the City "must give retirees an option of plans...; only that if there is to be an option of more than one plan, that the [City] may not pass any cost of the prior plan to the retirees, as it is the court's understanding that the threshold is not crossed by the cost of the retirees' current ... plan."

The Appellate Division, First Department affirmed, saying section 12-126(b)(1) requires the City "to pay the entire cost, up to the statutory cap, of any health insurance plan a retiree selects. This interpretation comports with the plain language of the provision as well as its legislative history.... Nothing in the statutory text or history supports respondents' interpretation that the provision is satisfied so long as they pay for the costs of one of the health insurance plans offered to retirees, which they have determined to be the [MAPP]." It said the City's claim that the cost of Senior Care exceeds the statutory cap "is improperly raised for the first time on appeal" and "involves factual issues that cannot be determined on the record."

The City argues that section 12-126 only requires it to provide one cost-free insurance plan to its retirees an the lower court decisions conflict with the statute's text and legislative purpose. "According to the Appellate Division, the City must either reject over half a billion dollars in annual savings or make a new Medicare Advantage plan the *only* option for Medicare-eligible retirees" and cancel the rest.

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State of New York
Court of Appeals

To be argued Tuesday, November 19, 2024

No. 105 Matter of Bodenmiller v DiNapoli

Suffolk County Police Officer Robert Bodenmiller applied for accidental disability retirement benefits under Retirement and Social Security Law (RSSL) § 363, which provides enhanced pension benefits for police and firefighters who are permanently incapacitated by injuries sustained in an on-duty accident. He was assigned to desk duty in July 2019 when he pushed his chair back, one of its wheels caught in a rut or hole in the floor and the chair began to tip backward. He reached out and grabbed the desk to steady himself, allegedly injuring his neck and right shoulder, wrist and hand.

The State Comptroller denied Bodenmiller's application for a disability pension based on the findings of a hearing officer that his injuries were not the result of an "accident" within the meaning of the RSSL. The hearing officer found the injuries were the result of "a risk inherent in the performance of his ordinary job duties," which are not eligible for accidental disability retirement; and further found the mishap was not accidental because "the hazard reasonably could have been anticipated" since Bodenmiller had been on the desk assignment for four months and was aware of the rutted condition of the floor.

The Appellate Division, Third Department confirmed the denial of disability retirement. It ruled the Comptroller erred in finding the chair-tipping incident was a risk inherent in police work but, in a 4-1 decision, held the incident was not a qualifying "accident" under the RSSL. To determine whether an injury is accidental, "the proper standard is whether the petitioner 'could or should have reasonably anticipated' the precipitating event," it said, rejecting Bodenmiller's argument that the standard conflicts with Matter of Kelly v DiNapoli (30 NY3d 674). It said, "Given [Bodenmiller's] testimony [about the condition of the floor] and the photographs of the floor that were admitted, [the Comptroller's] finding that petitioner could have reasonably anticipated the hazard – i.e., that the small wheels catching a depression in the floor would cause the chair to tip – was reasonable and supported by substantial evidence, despite other reasonable interpretations."

The dissenter argued the tipping chair was "'sudden, unexpected'" and thus accidental. "From the very beginning, the Court of Appeals has instructed that in gauging whether an 'accident' occurred, 'we adopt the commonsense definition of a sudden, fortuitous mischance, unexpected, out of the ordinary, and injurious in impact'" he said, quoting Matter of Lichtenstein (57 NY2d 1010 [1982]). "The Court has further cautioned that requiring a petitioner to demonstrate that a condition was not readily observable in order to establish an accident is not the standard (see Matter of Kelly v DiNapoli, 30 NY3d at 685 n 3).... From my perspective, the 'reasonably anticipated' standard is no longer sustainable after Kelly." He said an actual knowledge standard "comports more with the commonsense definition of an accident adopted in Lichtenstein.... The operative point here is that claimant knew about the defects in the floor but not that the chair would get stuck and go over backwards. That the chair did so was the type of sudden, unexpected event that should as a matter of commonsense be deemed an accident...."

For appellant Bodenmiller: Wayne J. Schaefer, Smithtown (631) 382-4800
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State of New York
Court of Appeals

To be argued Tuesday, November 19, 2024

No. 106 Matter of Compagnone v DiNapoli

Franco Compagnone, a police officer for the City of Rye, applied for accidental disability retirement under Retirement and Social Security Law (RSSL) § 363 based on line-of-duty injuries he sustained in October 2013 and June 2016, both times while working midnight shifts. In the 2013 incident, he was walking around the outside of a house that was under construction, shining his flashlight on the second floor where he had seen a suspicious light, when he fell into a hole that was about three feet deep and six feet long, injuring his right knee. He said there were no barriers, cones or netting around the hole. In 2016, he had been called to investigate a report of a suspicious person "going through cars" in a parking lot next to a baseball field when he slipped and fell on a rain-slicked wooden stairway that connected the lot to the ballpark.

The State Comptroller denied Compagnone's application for accidental disability benefits based on the hearing officer's findings that his injuries were not the result of an "accident" under the RSSL, which does not define the term. Under Matter of Kelly v DiNapoli (30 NY3d 674), an injury is accidental "when it is sudden, unexpected and not a risk of the work performed." The hearing officer said, "Encountering a hole or construction materials and debris at a construction site is not an unexpected event" and Compagnone "could have reasonably anticipated" such hazards. He said Compagnone's 2016 "search for a criminal suspect was part of his ordinary duties as a police officer" and he "could have reasonably anticipated the slippery condition of the steps" on a rainy night.

The Appellate Division, Third Department confirmed the denial of benefits, finding the injuries in both incidents were the result of risks inherent in police work. "Police officers are frequently injured due to hazards they encounter while traversing in dark and dangerous conditions; these circumstances are generally not deemed to be 'accidents' ... as they are considered inherent risks of the work, although they may be unusual."

Compagnone argues that his 2013 injury was the result of a qualifying "accident" under the RSSL because he "could not have reasonably known that there would be a man-made hole in the ground that was large enough to submerge his whole body" with no safety barriers of any kind. "Construction sites are generally subject to safety laws.... The fact that this hole was not sectioned off or made safe is substantial evidence that falling into that type of hole could not have been anticipated." He also contends it was not an inherent risk of his work. "[N]ot every fall while conducting an investigation in the dark is expected and also an inherent risk of the employment. By not considering the nature of the unseen condition, the Third Department may as well find that if [he] had stepped on a land mine, it would not have been an accident.... Hence, the nature of the unseen condition must be an integral part of the test."

For appellant Compagnone: Warren J. Roth, White Plains (914) 304-4353
For respondent DiNapoli: Assistant Solicitor General Dustin J. Brockner (518) 776-2017

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 Tuesday, November 19, 2024

No. 107 Jones v Cattaraugus-Little Valley Central School District

This federal case focuses on the time constraints on filing claims under New York's Child Victims Act (CVA), CPLR 214-g, which was enacted in 2019 to revive time-barred civil claims of childhood sexual abuse. The statute took effect on February 14, 2019 and, after a six-month waiting period, allowed victims to file suit against their abusers during a two-year period from August 14, 2019 to August 14, 2021. The waiting period was meant to give adult survivors of child sexual abuse and their attorneys a head start to work on their cases before the clock began running on the time-limited window they would have to file them.

The plaintiff is a Pennsylvania resident who was sexually abused by a high school teacher in New York's Cattaraugus-Little Valley Central School District from 2009 to 2011 (the teacher pled guilty to third-degree rape in 2013). She commenced this suit against the School District in April 2019 – two months after the CVA took effect, but nearly four months before its filing window opened. The District raised various defenses in its answer, including an assertion that the suit was "barred by the applicable statute of limitations."

In September 2021, three weeks after the two-year filing window of CPLR 214-g closed, the District moved for summary judgment on its statute of limitations defense. It said the plaintiff's claims became time barred in 2013 and she could not rely on the CVA's revival provisions because she did not commence her suit within the filing window. The plaintiff argued the District should be equitably estopped from asserting the defense because it had known her filing was premature and litigated the case "in bad faith" until the filing period expired.

The District Court dismissed the case, saying "the District did not 'hide' the existence of a statute of limitations defense" and had no obligation to "inform [plaintiff] of her premature filing to allow her to preserve her claim."

The U.S. Court of Appeals for the Second Circuit is asking this Court to resolve what it identified as the central issue by answering a certified question: "Whether the six-month waiting period for claims filed pursuant to the claim-revival provision of [the CVA] establishes a statute of limitations, a condition precedent to bringing suit, or some other affirmative defense."

"New York courts have held that the end of the two-year filing window is a statute of limitations...," the Second Circuit said. "Less clear, and central to this appeal, is whether the filing window start date – which created a six-month waiting period from the effective date of the act – is also a statute of limitations." It said that if the waiting period is a statute of limitations, the dismissal of the suit would have to be affirmed; and if instead it established a condition precedent to bringing suit, "we would affirm the district court's judgment on the ground that [plaintiff] did not meet that condition." However, if the waiting period "establishes some other affirmative defense..., we would be compelled to reverse the district court's judgment because the defense was forfeited.... [T]he school district did not raise its waiting-period defense ... until summary judgment" and the plaintiff "would unquestionably suffer undue prejudice if the school district were allowed to add a defense based on section 214-g's waiting period after the two-year filing window has already closed."

For appellant Jones: Virginia Hinrichs McMichael, Radnor, PA (610) 230-6200
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State of New York
Court of Appeals

To be argued Tuesday, November 19, 2024

No. 108 People v Jason Brisman

Jason Brisman was serving a sentence of up to 53 years for manslaughter at the Elmira Correctional Facility in August 2017, when he was charged with promoting prison contraband for possessing a 1¾ inch long piece of sharpened porcelain. The District Attorney's Office made him its "standard offer" of a plea to attempted promoting prison contraband in exchange for the minimum sentence of 1½ to 3 years in prison. Brisman rejected the plea offer and went to trial, where he was convicted of first-degree promoting prison contraband. He asked Chemung County Court to impose the minimum sentence of two to four years, while the prosecutor sought a sentence of two and a half to five years. The court imposed the maximum sentence of three and a half to seven years, which was added to his existing prison term.

The Appellate Division, Third Department affirmed, rejecting Brisman's claim that his sentence was excessive. "Although defendant was sentenced to the maximum term," it said, "the record reflects that County Court relied on the appropriate factors in imposing defendant's sentence. Thus, we discern 'no extraordinary circumstances or abuse of discretion warranting a reduction of the sentence in the interest of justice'...." The court said Brisman "failed to preserve his claim that the sentence imposed served to punish him for exercising his right to a trial...."

Brisman argues the Third Department improperly applied the "extraordinary circumstances or abuse of discretion" standard to his claim and failed to adhere to Criminal Procedure Law (CPL) 470.15(6)(b), which provides that the Appellate Division, in reviewing claims of excessive sentences, may consider whether "a sentence, though legal, was unduly harsh or severe." He says, "The language in CPL 470.15(6)(b) is clear and unambiguous," and intermediate appellate courts should be required to use the "unduly harsh or severe "standard"selected by the Legislature" when they review criminal sentences. He further argues that those courts "should consider the disparity between a plea offer and the sentence imposed after trial" in determining whether a sentence is unduly harsh and possibly a "trial penalty" imposed for rejecting a plea.

The prosecution argues "the Third Department was free in its discretion to review the defendant's sentence for 'extraordinary circumstances or abuse of discretion,' even though the other departments do not expressly use that analysis when deciding whether to modify a sentence. Nothing in the Criminal Procedure Law, and no decision of this Court, renders the Third Department's practice improper or an abuse of its own discretion." Further, because "judges alone are responsible for sentencing a defendant convicted after trial, the prosecution's plea offer should not be a factor in choosing the defendant's sentence" and assessing any disparity between the two "would taint the sentence-review process under CPL 470.15 with irrelevant considerations."

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