State of New York
Court of Appeals

To be argued Thursday, October 17, 2024

No. 91 Matter of McCabe v 511 West 232nd Owners Corp.

Maryann McCabe lived with David Burrows in an apartment at 511 West 232nd Owners Corp., a residential cooperative in the Bronx, from 2006 until Burrows died in 2019. Burrows owned the shares and lease for the apartment, which he bequeathed to his "friend" McCabe in his will. The lease provided, "If the Lessee shall die, consent shall not be unreasonably withheld or delayed to an assignment of the lease and shares to a financially responsible member of the Lessee's family (other than the Lessee's spouse as to whom no consent is required)." In 2020, McCabe asked the Cooperative to transfer the shares in the apartment to her pursuant to the lease and Burrows' will, saying she was entitled to an automatic transfer as Burrows' "partner for over 25 years." The Cooperative replied that McCabe had not demonstrated that she was a family member or spouse of Burrows and, thus, would have to vacate the unit or apply to purchase the unit shares. The Cooperative ultimately denied her application to purchase the shares.

McCabe filed this suit against the Cooperative to compel it to transfer the apartment to her, arguing she was entitled to an automatic transfer under the lease because she was "the equivalent of Mr. Burrows' spouse" as his "long time romantic partner." She also alleged the Cooperative had discriminated against her based on marital status in violation of the New York City Human Rights Law (HRL) and the State HRL. The Cooperative replied that it was not required to treat McCabe as a spouse because she was not legally married to Burrows. Even if she were a "non-traditional family member," it said it permissibly denied her application to transfer the assets because she did not demonstrate that she was "financially responsible."

Supreme Court dismissed the suit. McCabe "did not meet her burden of demonstrating a prima facie case of discrimination based upon marital status because eligibility for the cooperative apartment 'does not turn on the marital status' of the individual," it said, citing Levin v Yeshiva Univ. (96 NY2d 484 [2001]). This distinction being that here, the issue faced by [McCabe] arises not because she was unmarried, but because the lease restricts transfer or assignment on the lease without Board approval unless it is to spouses; [the Cooperative] did not refuse her based on discrimination against her marital status...."

The Appellate Division, First Department affirmed, saying, "The cooperative legitimately applied the terms ... of the proprietary lease to find that [McCabe] was not the decedent's spouse and therefore required approval by the board prior to transfer of the proprietary lease and shares of the subject unit.... Furthermore, based on [McCabe's] tax returns and financial information provided on her application to transfer such shares, the cooperative offered a legitimate, nondiscriminatory reason for denying its approval...."

McCabe argues that the Cooperative's failure to recognize her relationship with Burrows as the "equivalent" of a spouse and transfer the apartment to her violated the prohibition against marital status discrimination in the City HRL. She says the lower courts erred in relying on Levin, which was decided before the City adopted amendments in 2005 and 2016 providing that its HRL "shall be construed liberally for the accomplishment of the uniquely broad and remedial purposes thereof," regardless of how the State HRL and federal laws have been construed.

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State of New York
Court of Appeals

To be argued Thursday, October 17, 2024

No. 100 Matter of Ibhawa v New York State Division of Human Rights

Victor O. Ibhawa, a Nigerian Catholic priest studying for his master's degree, was hired by the Diocese of Buffalo in 2016 to serve as a parish administrator and pastor at the Blessed Trinity Church in Buffalo. In January 2019, the Diocese reappointed him for an additional three-year term, but terminated him prematurely in September 2020.

Ibhawa, who is Black, filed a racial discrimination complaint with the State Division of Human Rights (SDHR), asserting claims against the Diocese for wrongful termination and hostile work environment. He alleged that he had been subjected to racial slurs and xenophobic harassment by parishioners and coworkers. When he reported these incidents to officials of the Diocese, he said they failed to investigate and, instead, criticized him for deciding to fire two coworkers who were involved in the incidents. He said the Diocese offered him a plane ticket to Nigeria and, when he declined, fired him "without explanation." The Diocese argued that SDHR lacked jurisdiction due to the "ministerial exception," a First Amendment doctrine that precludes employment discrimination claims by ministers against religious employers.

SDHR dismissed the complaint for lack of jurisdiction. "The ministerial exception grants a church/religion the right to choose (or terminate) ministers or persons who serve in a similar religious role without governmental interference, including discrimination claims."

Supreme Court upheld dismissal of the retaliatory firing claim, but reinstated the claim for hostile work environment. It said the ministerial exception barred Ibhawa's claims "arising from ... tangible employment actions such as hiring and firing and claims relating to conduct for which the [Diocese] proffers a religious reason." However, because neither state nor federal courts have ruled the exception bars hostile work environment claims, it said SDHR's decision "was affected by an error of law and the absence of controlling authority does not constitute a rational basis to determine that the ministerial exception barred review" of Ibhawa's claim.

The Appellate Division, Fourth Department reversed and dismissed the suit, holding that the court applied an incorrect standard of review and "failed to give the requisite deference to SDHR's determination.... Inasmuch as there is no controlling United States Supreme Court or New York precedent ... on the extent to which the ministerial exception applies to claims of hostile work environment..., we conclude that SDHR's determination with respect to the hostile work environment claim is not arbitrary and capricious or affected by an error of law."

Ibhawa argues the ministerial exception "is not a jurisdictional bar to NYSDHR's mandate to investigate ... hostile work environment claims by a minister" and the agency "should not be permitted to abdicate its statutory duty." "A claim of discriminatory harassment within the workplace is separate and distinct from the religious mission of the church," he says, and the state "has a compelling interest in safeguarding all its residents from the harmful effects of discrimination and workplace hostility based on race.... Hostile work environment claims by ministerial employees can co-exist with robust religious freedom and respect for the First Amendment rights of religious organizations."

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State of New York
Court of Appeals

To be argued Thursday, October 17, 2024

No. 101 People v Timothy Shader

In 1977, Timothy Shader was convicted of first-degree rape, sodomy and other crimes in Albany County for breaking into a woman's house and forcibly raping her. He was sentenced to 8⅓ to 30 years in prison. When he was released on parole in 1998, Shader was designated a risk level three sex offender, the highest risk level under the Sex Offender Registration Act (SORA), based primarily on the seriousness of his offense and his criminal history, which began in 1970 at age 14 when he was found to be a juvenile delinquent after an arrest for first-degree sexual abuse. In 1973, he was found guilty of sexual misconduct and given a year of probation as a youthful offender. And in 1974, he was convicted of first-degree attempted rape for assaulting a young women and was sentenced to four years in prison as a youthful offender.

In 2021, at the age of 66, Shader filed a petition under Correction Law § 168-o to reduce his SORA risk classification from level three to level one. In support, he said he had committed no sex offenses for more than 40 years, successfully completed sex offender treatment and 10 years of parole supervision, and complied with his SORA registration requirements. He argued that his risk of recidivism was reduced in view of his age, education, steady employment, and his marriage and stable home life. The Board of Examiners of Sex Offenders did not oppose his modification to level one, saying Shader "has turned his life around and has been living a prosocial life in the community." The Board said, "Most importantly," Shader "acknowledges the harm he caused the victim of the instant offense and expresses remorse for his actions."

Supreme Court reclassified Shader a level two offender, but said it was "unpersuaded that the defendant has proven by clear and convincing evidence that he is so less likely to offend to warrant a level 1 designation. Although he has not been arrested for any new sex crimes, such a factor is far outweighed by the seriousness of his conviction, which involved breaking into a woman's home, assaulting, and raping her. Furthermore, the defendant has a long history of sexual offenses.... The court also notes that in 2003, while on parole for the instant offense, he was convicted of Attempted Auto Stripping in the Third Degree and Attempted Possession of Burglary Tools, both misdemeanor offenses."

The Appellate Division, Third Department affirmed, saying, "Upon review, no abuse of discretion exists in the court's reclassification of defendant to a risk level two sex offender...."

Shader argues that he presented "overwhelming evidence of his low risk of sexual re-offense" and that the lower courts abused their discretion by giving undue weight to the seriousness of his 1977 rape conviction, his prior sex offenses, and his 2003 misdemeanor convictions, which were not sexual in nature. He says the focus of those courts "on his decades-old criminal history," which cannot be undone, undermines the purposes of the risk level modification procedure in Correction Law § 168-o(2) by suggesting "that Mr. Shader can never be rehabilitated."

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State of New York
Court of Appeals

To be argued Thursday, October 17, 2024

No. 102 People v Jairo Castillo

Jairo Castillo fatally shot Julio Lebron inside a Bronx hair salon in August 2016. Lebron had been in a physical altercation with the salon owner earlier in the day, He returned several hours later threatening the people inside, then entered the small shop and blocked its only outside door. The prosecution's eyewitness said Lebron, while blocking the door, faced Castillo and said, "What are you going to do now? You're not getting out of here." He then held a razor blade to Castillo's face and said he would "cut the man from ear to ear." Castillo stepped back, pulled out a gun and began firing, striking Lebron in the chest and left arm. As Lebron "spun" around, Castillo continued firing, striking Lebron four times in the back. An autopsy found three of the six gunshot wounds – one in the chest and two in the back – would have been fatal.

At trial, Castillo claimed he acted in self defense and asked Supreme Court to instruct the jury on justification. The court refused, saying, "Having reviewed the testimony, including the photographs, including the razor blade and reviewing the relative sizes and ages, descriptions of the two parties involved, allegedly, I don't think it's an appropriate charge to give...."

After eight days of deliberations, the jury convicted Castillo of second-degree murder and criminal possession of a weapon. He was sentenced to 15 years to life in prison.

The Appellate Division, First Department affirmed. "The court correctly declined to charge justification because there was no reasonable view of the evidence, viewed most favorably to defendant, to support that defense...," it said. "It is undisputed that the victim was the initial aggressor, who held a razor blade near defendant's face and threatened to cut him. However, defendant stepped back, and the victim did not cut him. To the extent that defendant may have been justified in firing one or two shots, the victim turned around after those initial shots, and there was no reasonable view of the evidence, including the autopsy evidence, that defendant, firing from a few feet away, was justified in firing four additional shots into the victim's back, causing his death."

Castillo argues that this "was a classic self-defense case" and the jury should have been instructed on the defense of justification, which the prosecution would have had the burden to disprove. "There was a reasonable – in fact powerful – view of the evidence that Mr. Castillo used deadly force to prevent Lebron from slicing him from "ear to ear" with a razor blade" and "the fact that [Lebron] spun in the midst of a rapid and continuous shooting did not nullify a reasonable view that the subsequent shots were justified." He argues that it was for a jury to determine whether Lebron's "quick spin" after the first two shots meant the threat had abated and, if so, for the jury to decide whether "in the heat of this fast-paced and deadly encounter" Castillo "had sufficient time to react." He says the lower courts "unfairly, and unlawfully, stripped that classic factual question from the jury."

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For respondent: Bronx Assistant District Attorney Cynthia A. Carlson (718) 838-7095

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 Thursday, October 17, 2024

No. 103 People v David Vaughn

David Vaughn and an accomplice, who acted as a lookout, were charged with committing a gunpoint robbery of a wholesale warehouse in Brooklyn in May 2016, allegedly stealing about $3,000 in cash from the business owners Wei Jiang and David Chen. Surveillance cameras inside the warehouse videotaped the robbery and showed the gunman wearing a brown sweatshirt. The victims followed the thieves down the block while on the phone with the police. They described the gunman, allegedly Vaughn, as a black man wearing a brown hooded sweatshirt and a cap, with something resembling a badge on a lanyard around his neck. Jiang said he was about 6 feet tall and "in his mid 40s," while Chen said 6 feet, 2 inches. The victims were unable to identify the perpetrators from photo arrays four days later, but when Jiang returned to the warehouse he saw two men across the street whom he suspected were the thieves. He flagged down a patrol car and when they caught up to the men, Jiang identified them as the thieves. He said Vaughn, who was 42 years old and 6 feet tall, "still has the brown sweater on." The officer arrested Vaughn and the accomplice.

Both victims identified Vaughn as the gunman at trial. The defense sought to introduce expert testimony about cross-racial identification and other factors that can affect the reliability of eyewitness identifications. Supreme Court granted the request for expert testimony only on the issue of cross-racial identification, ruling that the surveillance videos and the brown sweatshirt worn by the gunman sufficiently corroborated the victims' identification of Vaughn. The court also said jurors did not need expert testimony to explain other factors affecting eyewitness reliability "such as: Stress, weapon focus, duration of encounter, distance and lighting, disguises, memory decay [because] this is all within the k[e]n of a juror using their good common sense without the need for the opinion of an expert witness." Vaughn was convicted of first-degree robbery and second-degree burglary. He was sentenced to 20 years to life in prison.

The Appellate Division, Second Department affirmed, concluding that the trial court did not abuse its discretion in limiting the defense expert's testimony on eyewitness reliability because the prosecution "presented sufficient corroborating evidence connecting the defendant to the crime to obviate the need for the additional inquiry...."

Vaughn argues there was not enough corroborating evidence to exclude much of his requested expert testimony. "Neither of the two items of alleged corroboration upon which the trial court relied provided strong proof of identity: appellant's sweatshirt appeared to be a common and unremarkable item of clothing..., and the low-quality surveillance videos did not clearly show the robber's face or any distinguishing features." He also argues that "settled precedent demonstrates that the excluded topics were proper subjects of expert testimony beyond the ken of the average juror."

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