State of New York
Court of Appeals

To be argued Thursday, May 16, 2024

No. 65 Matter of Prisoners' Legal Services of New York v New York State Department of Corrections and Community Supervision

Prisoners' Legal Services of New York (PLS), which provides legal representation to inmates, filed Freedom of Information Law (FOIL) requests on behalf of four clients who were facing Tier III disciplinary hearings for alleged misconduct. PLS sought surveillance videos, unusual incident (UI) reports, and other material related to incidents that took place in the yards of the Auburn and Clinton Correctional Facilities in May and June 2019. The State Department of Corrections and Community Supervision (DOCCS) denied the requests for surveillance videos for all four clients, on the ground that disclosure could interfere with ongoing law enforcement investigations, and denied the request for one UI report.

After its administrative appeal was rejected, PLS commenced this suit seeking disclosure of the withheld materials. While the suit was pending, DOCCS withdrew its denials of three requests and provided PLS with two of the surveillance videos and the UI report.

Supreme Court denied as moot the challenges to DOCCS's denial of requests for the videos and UI report that it ultimately produced. The court said the issues – the applicability of the law enforcement and intra-agency materials exemptions to FOIL – did not fall within the exception to the mootness doctrine because they were not "substantial, novel, or likely to evade review." The court subsequently upheld the determination by DOCCS to withhold the remaining two surveillance videos.

The Appellate Division, Third Department affirmed, saying PLS's demand for the produced materials was moot and did not fall within the mootness exception because PLS "failed to establish that this issue is one that would typically evade review as these exemptions and their invocation are frequently examined by this court." It said DOCCS "satisfied its burden of demonstrating that the withheld materials fell within the safety exemption to FOIL disclosure as it 'could potentially endanger the life or safety of the persons involved,'" which a DOCCS official described as "race-related gang activity."

PLS argues that DOCCS's initial denial of the disputed records that it ultimately produced "warrant exceptions to the mootness doctrine to allow a decision on the merits, as the case presents compelling and novel issues concerning the limits of prison officials' authority to thwart essential oversight." It says the FOIL exemptions invoked by DOCCS – law enforcement investigations and intra-agency documents in draft form – are of a "transient nature" because investigations are completed and reports finalized. "[T]he phenomenon that here evades review ... is the agency's reliance on time-limited conditions to deny records under exemptions that are facially inapplicable from the outset. Those time-limited constraints will typically resolve before the underlying FOIL denial can be fully litigated" and "DOCCS's statutory misinterpretations will therefore continue to evade review and correction."

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State of New York
Court of Appeals

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No. 67 People v Matthew Corr
No. 68 People v Bryan McDonald

Matthew Corr and Bryan McDonald were convicted of sex offenses in other states – Corr pled guilty to possession of child pornography in Rhode Island and registered as a sex offender in his home state of Massachusetts in 2016; McDonald was found guilty in Delaware of videotaping a 19-year-old woman while she showered and he registered as a sex offender there in 2015. Both men relocated to New York State in 2019, were designated level one sex offenders and were required to register in New York under the Sex Offender Registration Act (SORA), which provides, "The duration of registration and verification for a sex offender ... who is classified as a level one risk ... shall be annually for a period of twenty years from the initial date of registration" (Correction Law § 168-h[1]). Both men requested credit for the time they served on the out-of-state registries toward the 20 years they were required to register as sex offenders in New York.

Supreme Court denied their requests for time-served credit, saying in Corr that SORA "is clear that when you come to New York, you register for 20 years."

The Appellate Division, Second Department affirmed the denial of credit in both cases, saying in Corr that "the 'initial date of registration'" in the statute " refers to the initial date that the defendant registers as a sex offender with the Division [of Criminal Justice Services] ... in New York. SORA does not mention registration under any other state's laws or agencies. Further, other provisions of the statute refer to the initial registration date, requiring the sex offender to register each anniversary of that date..., which plainly means the date of initial registration in New York." It concluded, "The remedial goals of SORA are advanced when a sex offender relocating to New York is obligated to comply with SORA's registration requirements, including the full duration of the required registration time period."

Corr and McDonald argue, "The unambiguous – and indeed, only – plain reading of [section 168-h(1)] is that Level 1 registrants, those deemed least likely to reoffend, should be credited all time from the initial date of registration, be it in New York or another state, consistent with the Legislature's view that the total and maximum period of registration should be a definite 20 years.... Defining 'initial' as the date upon which the individual first registered for the offense also achieves SORA's legislative purpose.... [T]he Legislature intended to allow individuals who present the lowest likelihood of recidivism to be removed from the registry after 20 years. Extending that period undermines SORA's goal of accurately determining a registrant's risk to public safety, thereby diminishing the usefulness of the registry and distorting the law's purpose." They say the fact the Legislature has not "narrowed the plain meaning of 'initial date of registration' to refer only to the date of registration in New York evinces its intent to credit time registered in other jurisdictions."

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State of New York
Court of Appeals

To be argued Thursday, May 16, 2024

No. 19 People v Steven Sidbury

In January 2014, while being held in solitary confinement at Rikers Island, Steven Sidbury set fire to papers inside the metal "cuffing port" or "food box" built into his cell door. The fire was quickly extinguished and did not trigger the fire alarm or sprinkler system, but the plexiglass lid of the port was partially melted and the fire left soot marks on the door. Sidbury was charged with second-degree arson under Penal Law § 150.15, which provides that a defendant is guilty when he intentionally damages an occupied building by starting a fire.

Prior to trial, Supreme Court declined to accept defense counsel's late notice of intent to offer psychiatric evidence under CPL 250.10, which requires that such notice be filed within 30 days of arraignment. Sidbury's notice was submitted nearly four years later. His psychiatric expert was prepared to testify, based on Sidbury's medical records since childhood, about his lack of criminal responsibility by reason of mental disease or defect, but needed to examine him to provide a specific diagnosis. The court rejected the notice, without inquiring into whether the prosecution would be prejudiced, based on the long delay in filing and because "there's no basis" for a psychiatric defense. It said, "There is no psychiatric issue. There is a malingering issue. There is a wonderful act that he puts on. There is this calculated effort to interrupt and defeat a trial.... Your client does not possess a psychiatric issue." Sidbury was convicted of second-degree arson and sentenced to 25 years in prison.

The Appellate Division, First Department affirmed the conviction, but reduced the sentence to ten years. It said, "The evidence established that defendant intentionally caused damage to a building by setting a fire in the cuffing port in the door of his jail cell and damaging that part of the door.... It is undisputed that a door is part of a building for purposes of the arson statutes." It said, "The court providently exercised its discretion in precluding defendant from raising a psychiatric defense, because his CPL 250.10(2) notice was both grossly untimely and lacking any showing that the proffered psychiatric expert testimony would be relevant to a particular defense." The court also rejected Sidbury's claim that his attorney was ineffective in failing to request submission of fourth-degree arson as a lesser-included offense, saying "[r]easonable strategic concerns would support counsel's decision."

Sidbury argues his conviction should be vacated because the fire he set was confined to "a cuffing port – a small metal box that does not fall within the definition of 'building' set forth in the Penal Law." He says the legislative intent of the second-degree arson statute "is to punish people who threaten the lives and safety of others by setting fire to occupied buildings" and application of the statute to his case "would frustrate the legislature's carefully designed arson regime." He says the trial court improperly precluded his psychiatric defense because "the prosecution never made any claim of prejudice, and the court did not consider it at any point.... The court's ruling transformed the statute into a means of assessing Mr. Sidbury's defense before he was allowed to develop it." He also pursues his ineffective assistance of counsel claim.

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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, May 16, 2024

No. 66 Matter of Karlin v Stanford

This First Amendment challenge to parole conditions was brought by Daniel Karlin, who was convicted in 1993 of first-degree sodomy, sexual abuse and related charges for engaging in sexual conduct with eight pre-teen boys when he worked as a camp counselor in 1991. He was sentenced to 6 to 18 years in prison. In 1994, Karlin pled guilty to first-degree sodomy for engaging in oral sex with a 10-year-old boy he was babysitting, and he was sentenced to a concurrent term of 8⅓ to 25 years. He was released on parole in 2018, enrolled in college, and obtained permission from his parole officer to use a computer for his academic work. In return, Karlin agreed to a special condition of parole providing that he "shall not view, access, possess and/or download any materials depicting sexual activity, nudity, or erotic images."

Five months after his release, his parole officer conducted a random search of Karlin's computer and found he had used his Rochester Public Library account to access a Netflix film titled "Nymphomaniac" and an issue of Q Magazine with an article about anal sex and a cover photo of four nude men with their backs to the camera. At his parole revocation hearing, Karlin pled guilty to charges that he violated the special condition of parole by accessing "materials depicting sexual activity" and "materials depicting sexual nudity." The hearing officer returned him to prison for 22 months. After his administrative appeal was rejected, Karlin filed this suit against Tina Stanford, as chair of the Parole Board, contending the special condition is unconstitutionally overbroad and violates his First Amendment rights.

Supreme Court dismissed the suit, holding that, in view of Karlin's sex offenses, the special condition was "reasonably and necessarily related to the legitimate interests of the parole regime, including [his] rehabilitation and the protection of the public." It said the condition applied only to Karlin and he was the only person whose First Amendment conduct "may be chilled."

The Appellate Division, Third Department affirmed, finding the special condition "was reasonably related to [Karlin's] past crimes and the mitigation of his future risk of recidivism." It said, "Given that overbreadth challenges address the chilling effect that a law can have on the free speech of the public at large," his overbreadth claim "is without merit. Notably, [Karlin's] First Amendment rights are circumscribed by his status as a parolee. Therefore, we cannot say that the special condition was unconstitutionally overbroad. Rather, the special condition was a plainly legitimate sweep to regulate [his] access to certain materials during his conditional release based upon his criminal history and risk of recidivism...."

Karlin argues the special condition is overbroad because its "blanket ban on <u>any</u> depiction of the nude human body or people engaged in any form of sexual activity threatens imprisonment for conduct as unremarkable as flipping through television channels at night, browsing a used bookstore, or visiting an art museum." The condition "is not reasonably related to penological interests," he says, since the fact he "has a 'significant criminal sexual history against children,' does not support a finding that the Condition is reasonably related to that history. The Condition extends to <u>any</u> depiction of nudity or sexual activity, regardless of the age of the individuals depicted or the nature of the depiction." He argues the restrictions "need not apply to the public at large" to be unconstitutional and "even if the Condition is only overbroad as to one person – Mr. Karlin – it is unlawful and invalid."

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