

NEW YORK COURT OF APPEALS

The People &c. v. Pettis Hardy

26 N.Y.3d 245 (2015) · No. No. 159 · Decided November 18, 2015

SUMMARY

The New York Court of Appeals held that surveillance video showing the defendant exercising dominion and control over the victim's purse constituted direct evidence of larceny. Because the prosecution's proof included direct evidence, the trial court was not required to give a circumstantial-evidence jury charge; the court also upheld the denial of mistrial requests based on alleged jury deadlock.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Fahey, J.; Chief Judge Lippman; Judge Pigott; Judge Rivera; Judge Abdus-Salaam; Judge Stein; Judge Fahey
JURISDICTION	New York
DECIDED	November 18, 2015
DOCKET	No. 159
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed, by leave of a Judge of the Court of Appeals, from an order of the Appellate Division, First Department, affirming his convictions for grand larceny and petit larceny.
STANDARD OF REVIEW	Whether a circumstantial-evidence charge was required was reviewed under the governing legal standard; the denial of a mistrial based on jury deadlock was reviewed for abuse of discretion and was entitled to great deference.
PRECEDENTIAL VALUE	published precedential opinion of the New York Court of Appeals
PARTIES	Pettis Hardy v. The People of the State of New York

TOPICS

- jury instructions
- criminal procedure
- evidence
- appellate procedure
- preservation of error

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether surveillance video showing defendant exercising dominion and control over the victim's purse constituted direct evidence of the taking element of larceny, such that a circumstantial-evidence jury charge was not required.
2. Whether the trial court abused its discretion by denying defendant's mistrial motions after the jury twice reported difficulty reaching a unanimous verdict.
3. Whether the trial court's modified and full Allen charges coerced the jury into reaching a verdict.

HOLDINGS

1. The surveillance video constituted direct evidence of defendant's guilt because it directly established the taking element of larceny by showing defendant exercising dominion and control over the purse in a manner wholly inconsistent with the owner's continued rights. Because the proof consisted of both direct and circumstantial evidence, the trial court was not required to give a circumstantial-evidence charge.
2. Defendant's statement that he did not have the purse but could get it was circumstantial rather than direct evidence because it was not a relevant admission of guilt and required an inference that defendant had stolen the purse.
3. The trial court did not abuse its discretion as a matter of law by denying defendant's mistrial motions after the jury twice reported difficulty reaching a unanimous verdict.
4. The trial court's modified and full Allen charges were not coercive because they were balanced and informed jurors that they were not required to reach a verdict and should not surrender conscientiously held positions.

KEY QUOTATIONS

"A particular piece of evidence is not required to be dispositive of a defendant's guilt in order to constitute direct evidence." (slip op. at 1)

"Furthermore, a particular piece of evidence is not required to be wholly dispositive of guilt in order to constitute direct evidence, so long as it proves directly a disputed fact without requiring an inference to be made." (slip op. at 8)

FACTUAL BACKGROUND

Defendant, a nightclub security guard, was captured on surveillance video taking the victim's purse from a couch, hiding it, rummaging through it after the victim and her friends left, and walking away with it. When confronted, defendant initially denied knowledge of the purse but stated, "I don't have it, but I can get it." At trial, defendant offered evidence that his security duties authorized him to move purses and other items inside the club.

PROCEDURAL HISTORY

A jury convicted defendant of four counts of grand larceny in the fourth degree and one count of petit larceny after the trial court declined to give the requested circumstantial-evidence charge and denied two mistrial motions based on jury deadlock. The Appellate Division unanimously affirmed. The Court of Appeals granted leave to appeal and affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Santiago, 22 N.Y.3d 990, 991-992 (2013)
- People v. Roldan, 88 N.Y.2d 826, 827 (1996)
- People v. Brian, 84 N.Y.2d 887, 889 (1994)
- People v. Barnes, 50 N.Y.2d 375, 380 (1980)
- People v. Guidice, 83 N.Y.2d 630, 636 (1994)
- People v. Rumble, 45 N.Y.2d 879, 880 (1978)
- People v. Licitra, 47 N.Y.2d 554, 558-559 (1979), rearg. denied, 53 N.Y.2d 938 (1981)
- People v. Burke, 62 N.Y.2d 860, 861 (1984)
- People v. Sanchez, 61 N.Y.2d 1022, 1023 (1984)
- People v. Jennings, 69 N.Y.2d 103, 118 (1986)
- People v. Olivo, 52 N.Y.2d 309, 318 (1981), rearg. denied, 53 N.Y.2d 797 (1981)
- People v. Robinson, 60 N.Y.2d 982, 983-984 (1983)
- People v. Bretagna, 298 N.Y. 323, 325 (1949), cert. denied, 336 U.S. 919 (1949), reh'g denied, 336 U.S. 922 (1949)
- Matter of Rivera v. Firetog, 11 N.Y.3d 501, 507 (2008), cert. denied, 556 U.S. 1193 (2009)
- People v. Baptiste, 72 N.Y.2d 356, 360 (1988)
- Matter of Owen v. Stroebel, 65 N.Y.2d 658, 660 (1985), cert. denied, 474 U.S. 994 (1985)
- Matter of Plummer v. Rothwax, 63 N.Y.2d 243, 250 (1984)
- Allen v. United States, 164 U.S. 492, 501 (1896)
- People v. Aponte, 2 N.Y.3d 304, 308-309 (2004)