

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, FIRST DEPARTMENT

People v. McDaniels-Payne

2020 N.Y. Slip Op. 01715 (App. Div. 2020) · No. 11266; 1054/16 · Decided March 12, 2020

SUMMARY

The Appellate Division, First Department, unanimously affirmed the judgment of Supreme Court, New York County, convicting Joshua McDaniels-Payne. The court granted assigned counsel's application to withdraw under *Anders v. California*, concluding that the appeal presented no nonfrivolous issues, and stated the procedure for seeking leave to appeal to the Court of Appeals.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, First Department
WRITING FOR THE COURT	Friedman, J.P.; Kapnick, J.; Oing, J.; González, J.
JURISDICTION	New York
DECIDED	March 12, 2020
DOCKET	11266; 1054/16
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Supreme Court, New York County, and appellate counsel moved to withdraw under <i>Anders v. California</i> .
STANDARD OF REVIEW	The court reviewed the appellate record to determine whether any nonfrivolous issue existed for appeal.
PRECEDENTIAL VALUE	Published appellate decision; opinion is identified as uncorrected and subject to revision before publication in the Official Reports.
PARTIES	Joshua McDaniels-Payne v. The People of the State of New York

TOPICS

[appellate procedure](#) [right to counsel](#) [criminal procedure](#)

PRACTICE AREAS

[criminal appellate procedure](#) [right to counsel](#)

QUESTIONS PRESENTED

1. Whether appointed appellate counsel should be permitted to withdraw under *Anders v. California* because the appeal presented no nonfrivolous issues.
2. Whether the judgment of Supreme Court, New York County, should be affirmed.

HOLDINGS

1. Counsel's application to withdraw was granted because the court agreed that there were no nonfrivolous points that could be raised on appeal.
2. The judgment of Supreme Court, New York County, rendered October 4, 2017, was unanimously affirmed.

KEY QUOTATIONS

"We have reviewed this record and agree with defendant's assigned counsel that there are no non-frivolous points which could be raised on this appeal." (*1)

FACTUAL BACKGROUND

The opinion provides no substantive factual account of the underlying offense. It identifies a judgment rendered by Supreme Court, New York County, on October 4, 2017, from which defendant appealed. Appellate counsel concluded that there were no nonfrivolous issues to raise.

PROCEDURAL HISTORY

The Supreme Court, New York County, rendered judgment against defendant on October 4, 2017. On appeal, assigned counsel applied to withdraw, asserting that no nonfrivolous issues could be raised. The Appellate Division reviewed the record, granted counsel's application, and unanimously affirmed the judgment.

DISPOSITION

affirmed

CASES CITED

- *Anders v. California*, 386 U.S. 738 (1967)
- *People v. Saunders*, 52 A.D.2d 833 (1st Dep't 1976)

OPINION

PER CURIAM.

People v McDaniels-Payne (2020 NY Slip Op 01715) People v McDaniels-Payne 2020 NY Slip Op 01715 Decided on March 12, 2020 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on March 12, 2020

Friedman, J.P., Kapnick, Oing, González, JJ. 11266 1054/16 [*1] The People of the State of New York, Respondent, vJoshua McDaniels-Payne, Defendant-Appellant.

Janet E. Sabel, The Legal Aid Society, New York (Paul Wiener of counsel), for appellant. Judgment, Supreme Court, New York County (Charles H. Solomon, J.), rendered October 4, 2017, unanimously affirmed. Application by defendant's counsel to withdraw as counsel is granted (see *Anders v California*, 386 U.S. 738 [1967]; *People v Saunders*, 52 AD2d 833 [1st Dept 1976]).

We have reviewed this record and agree with defendant's assigned counsel that there are no non-frivolous points which could be raised on this appeal. Pursuant to Criminal Procedure Law § 460.20, defendant may apply for leave to appeal to the Court of Appeals by making application to the Chief Judge of that Court and by submitting such application to the Clerk of that Court or to a Justice of the Appellate Division of the Supreme Court of this Department on reasonable notice to the respondent within thirty (30) days after service of a copy of this order.

Denial of the application for permission to appeal by the judge or justice first applied to is final and no new application may thereafter be made to any other judge or justice. THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: MARCH 12, 2020 CLERK