

NEW YORK COURT OF APPEALS

Matter of Rafael Cortorreal v. Anthony J. Annucci

28 N.Y.3d 54 (2016) · No. No. 152 · Decided October 25, 2016

SUMMARY

The New York Court of Appeals held that a prison disciplinary hearing officer violates an inmate's right to call witnesses by failing to conduct a meaningful inquiry into an allegation that a requested witness was coerced into refusing to testify. The court held that a witness refusal stating that the inmate did not want to be involved or did not wish to testify generally provides a sufficient reason for refusal, but that allegations of coercion require further inquiry. The court reversed, annulled the disciplinary determination, and directed expungement because the parties agreed that a fair rehearing was no longer possible.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Fahey, J.; Chief Judge DiFiore; Judge Pigott; Judge Rivera; Judge Abdus-Salaam; Judge Garcia; Judge Stein
JURISDICTION	New York
DECIDED	October 25, 2016
DOCKET	No. 152
DISPOSITION	reversed
PROCEDURAL POSTURE	Petitioner commenced a CPLR article 78 proceeding challenging a prison disciplinary determination. Supreme Court dismissed the petition, and the Appellate Division, Third Department, affirmed. The New York Court of Appeals granted leave to appeal.
STANDARD OF REVIEW	The court reviewed whether the prison disciplinary hearing complied with the inmate's regulatory and constitutional right to call witnesses and whether the article 78 petition was properly dismissed.
PRECEDENTIAL VALUE	Published New York Court of Appeals opinion; precedential
PARTIES	Rafael Cortorreal v. Anthony J. Annucci

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QUESTIONS PRESENTED

1. Whether a requested inmate witness's statement that the witness does not want to be involved or does not wish to testify adequately states a reason for refusing to testify.
2. Whether a prison disciplinary hearing officer must conduct a meaningful inquiry when a refusing inmate witness alleges that coercion or intimidation caused the refusal.

HOLDINGS

1. A simple statement on a witness-refusal form that the requested inmate does not want to be involved or does not wish to testify is generally sufficient to protect the requesting inmate's right to call that witness.
2. When a refusing inmate witness alleges by affidavit that the witness was coerced into refusing to testify at the hearing or a related proceeding, the hearing officer must undertake a meaningful inquiry into the allegation. The hearing officer's failure to do so violated Cortorreal's right to call witnesses and required annulment of the disciplinary determination.

KEY QUOTATIONS

"A hearing officer presiding at an inmate's disciplinary hearing violates the inmate's right to call witnesses by failing to undertake a meaningful inquiry into a requested witness's allegation that the witness had been coerced into refusing to testify in a related proceeding." (28 N.Y.3d at 54)

"We hold that, as a general rule, when a requested inmate witness refuses to testify, a simple statement by the inmate on a refusal form that he or she does not want to be involved or does not wish to testify is sufficient to protect the requesting inmate's right to call that witness." (28 N.Y.3d at 60)

"When a hearing officer in a prison disciplinary hearing is presented with an affidavit in which a refusing inmate witness claims that he or she was coerced into refusing to testify at the hearing or in a related proceeding, the hearing officer has an obligation to undertake a meaningful inquiry into the allegation." (28 N.Y.3d at 60)

FACTUAL BACKGROUND

While incarcerated at Sing Sing Correctional Facility, Rafael Cortorreal worked as a building porter, and marihuana was found in a waste container outside the building where he worked. At his rehearing, Cortorreal requested testimony from 10 inmate witnesses; eight refused, including one who submitted an affidavit stating that a correction officer had intimidated him into refusing to testify at the earlier hearing. The hearing officer did not contact that inmate or the allegedly coercive officer and instead relied on testimony from a different correction officer who had been present when the inmate refused to testify at the rehearing.

PROCEDURAL HISTORY

Cortorreal was found guilty at an initial Tier III disciplinary hearing, but that determination was administratively reversed because a potentially relevant witness had not been properly addressed. At a rehearing, he was again found guilty and received 12 months of punitive confinement. DOCCS affirmed administratively; Supreme Court dismissed his article 78 petition, and the Appellate Division affirmed. The Court of Appeals reversed, granted the petition, annulled the determination, and ordered expungement.

DISPOSITION

reversed

REMAND INSTRUCTIONS

No remand for a new hearing was ordered. The respondent's determination was annulled, and respondent was directed to expunge all references to the proceeding from petitioner's files.

CASES CITED

- Matter of Laureano v. Kuhlmann, 75 N.Y.2d 141, 146 (1990)
- Wolff v. McDonnell, 418 U.S. 539, 566 (1974)
- Matter of Barnes v. LeFevre, 69 N.Y.2d 649, 650 (1986)
- Matter of Jamison v. Fischer, 119 A.D.3d 1306, 1306 (3d Dep't 2014)
- Matter of Tulloch v. Fischer, 90 A.D.3d 1370, 1371 (3d Dep't 2011)
- Matter of Delgado v. Fischer, 100 A.D.3d 1171, 1172 (3d Dep't 2012)
- Matter of Abdur-Raheem v. Prack, 98 A.D.3d 1152, 1153 (3d Dep't 2012)
- Matter of Hill v. Selsky, 19 A.D.3d 64, 67 (3d Dep't 2005)
- Matter of Codrington v. Mann, 174 A.D.2d 868, 869 (3d Dep't 1991)
- Matter of Tafari v. Fischer, 78 A.D.3d 1405, 1406 (3d Dep't 2010)
- Cortorreal v. Annucci, 123 A.D.3d 1337 (3d Dep't 2014)

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