

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

People v. Petrizzo

2020 NY Slip Op 03251 (N.Y. Ct. App. 2020) · No. 2016-03984 · Decided June 10, 2020

SUMMARY

The Appellate Division, Second Department reversed Aaron Petrizzo's conviction for resisting arrest because the trial court failed to comply with Criminal Procedure Law § 310.30 and the procedures governing jury notes. The court dismissed the indictment in the interest of justice and remitted the matter to the Supreme Court, Kings County, for proceedings concerning record sealing.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	John M. Leventhal, J.P.; Joseph J. Maltese, J.; Colleen D. Duffy, J.; Linda Christopher, J.
JURISDICTION	New York
DECIDED	June 10, 2020
DOCKET	2016-03984
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed from a Kings County Supreme Court judgment convicting him of resisting arrest after a jury trial and imposing sentence.
STANDARD OF REVIEW	Independent review of the weight of the evidence under CPL 470.15(5), while according great deference to the jury's opportunity to observe the witnesses. Compliance with CPL 310.30 was reviewed under the mode-of-proceedings-error standard, for which preservation is not required when the trial court fails to provide meaningful notice of a substantive jury note.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion; precedential within the applicable New York court system.
PARTIES	Aaron Petrizzo v. The People of the State of New York

TOPICS

criminal procedure

appellate procedure

preservation of error

standard of review

PRACTICE AREAS

criminal procedure

appellate practice

QUESTIONS PRESENTED

1. Whether the conviction for resisting arrest was against the weight of the evidence.
2. Whether the trial court violated CPL 310.30 by failing to provide meaningful notice to counsel and a meaningful response concerning substantive jury notes.
3. Whether the CPL 310.30 errors constituted mode-of-proceedings errors requiring reversal without preservation.
4. Whether dismissal of the indictment was appropriate after reversal where the defendant had been acquitted of the two most serious charges and had served the misdemeanor sentence.

HOLDINGS

1. The conviction was not against the weight of the evidence because the jury was entitled to accept or reject portions of the prosecution witnesses' testimony.
2. Under CPL 310.30, the trial court must provide counsel with meaningful notice of the content of a substantive jury note and must provide a meaningful response to the jury.
3. The trial court's failure to provide meaningful notice of the substantive jury notes constituted mode-of-proceedings errors, making preservation unnecessary and requiring reversal.
4. Dismissal of the indictment was appropriate in the exercise of the court's interest-of-justice jurisdiction because the defendant had been acquitted of the two most serious charges and had already served the sentence for the misdemeanor conviction.

KEY QUOTATIONS

*“Criminal Procedure Law § 310.30 imposes two responsibilities on trial courts upon receipt of a substantive note from a deliberating jury: the court must provide counsel with meaningful notice of the content of the note, and the court must provide a meaningful response to the jury” (at *1)*

*“In the absence of record proof that the trial court complied with its core responsibilities under CPL 310.30, a mode of proceedings error occur[s] requiring reversal” (at *1)*

FACTUAL BACKGROUND

A jury convicted Aaron Petrizzo of resisting arrest but acquitted him of two more serious charges. During deliberations, the jury submitted a note asking about the elements of resisting arrest and another note seeking clarification about portions of witness testimony. The trial court misread the first note by substituting "initially" for "intentionally," did not show the note to the parties as reflected in the record, and did not read or disclose the second note to the parties.

PROCEDURAL HISTORY

The defendant was convicted of resisting arrest by a jury in the Supreme Court, Kings County, after being acquitted of two more serious charges. The Appellate Division found that the trial court failed to comply with Criminal Procedure Law § 310.30 in handling substantive jury notes, reversed the conviction, dismissed the indictment in the interest of justice, and remitted the matter for proceedings concerning record sealing under CPL § 160.50.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The indictment was dismissed, and the matter was remitted to the Supreme Court, Kings County, for further proceedings consistent with CPL § 160.50, including a determination whether the record should be sealed.

CASES CITED

- People v. Mateo, 2 N.Y.3d 383, 410
- People v. Bleakley, 69 N.Y.2d 490, 495
- People v. Huger, 136 A.D.3d 943, 944
- People v. Mazyck, 118 A.D.3d 728, 729
- People v. O'Rama, 78 N.Y.2d 270, 276-277, 279
- People v. Mack, 27 N.Y.3d 534, 536, 538
- People v. Tabb, 13 N.Y.3d 852, 853
- People v. Walston, 23 N.Y.3d 986, 990
- People v. Flynn, 79 N.Y.2d 879, 882
- People v. Bailey, 164 A.D.3d 815, 819