

COURT OF APPEALS OF NEW YORK

People v. Contreras

12 N.Y.3d 268 (2009) · Decided April 7, 2009

SUMMARY

The New York Court of Appeals held that a trial court acted within its discretion in conducting an initial ex parte review of a complainant's notes, permitting defense counsel to review and contest their exclusion, and restricting counsel from disclosing the notes' contents to the defendant. The court concluded that the notes were irrelevant and were not Rosario or Brady material, and affirmed the Appellate Division's order affirming the defendant's convictions.

CASE DETAILS

COURT	Court of Appeals of New York
WRITING FOR THE COURT	Smith, J.; Ciparick, J.; Graffeo, J.; Read, J.; Pigott, J.; Jones, J.
JURISDICTION	New York
DECIDED	April 7, 2009
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from an Appellate Division order affirming his criminal convictions and obtained leave to appeal to the New York Court of Appeals.
STANDARD OF REVIEW	Abuse-of-discretion review of the trial court's choice of procedures for a discretionary Rosario or Brady hearing.
PRECEDENTIAL VALUE	Published precedential opinion of the New York Court of Appeals
PARTIES	Walkins Contreras v. The People of the State of New York

TOPICS

discovery criminal criminal procedure evidence right to counsel appellate procedure

PRACTICE AREAS

criminal procedure criminal discovery evidence constitutional criminal procedure

QUESTIONS PRESENTED

1. Whether the trial court used permissible procedures in determining, through an initial ex parte review and a subsequent hearing attended by defense counsel but not defendant, that the complainant's notes were not Rosario or Brady material.
2. Whether defendant had a constitutional right to be personally present at the hearing concerning the notes.
3. Whether the court's restriction preventing defense counsel from disclosing the contents of the irrelevant and potentially inflammatory notes to defendant violated defendant's constitutional right to attorney-client communication.

HOLDINGS

1. When a trial court chooses, although not required to do so, to hold a hearing on whether evidence constitutes Rosario or Brady material, it has broad discretion to select reasonable procedures for conducting that hearing, and an appellate court will not second-guess a reasonable procedural choice.
2. A defendant's right to be personally present at critical stages of trial does not require the defendant's presence at a hearing that is noncritical and, as a matter of law, unnecessary, particularly where the defendant's presence would not contribute to the fairness of the procedure.
3. Communication between attorney and client, although generally unrestricted, is not constitutionally protected when the communication would disclose an irrelevant, embarrassing, and potentially inflammatory document having nothing to do with the case.

KEY QUOTATIONS

"Where a court, although not required to do so, chooses to grant a hearing on the issue of whether a particular piece of evidence constitutes Rosario or Brady material, it has broad discretion as to how the hearing should be conducted." (272)

"A defendant is entitled to be personally present at all critical stages of his trial if his presence would contribute to the fairness of the procedure." (273)

"The disclosure by lawyer to client of an embarrassing and inflammatory document having nothing to do with the case is not a constitutionally protected communication." (273)

FACTUAL BACKGROUND

Defendant forced his way into his wife's apartment, held her and her seven-year-old son captive, raped and threatened her, and was arrested after she called 911. Police found handwritten notes in the apartment referring to the complainant's romantic relationship with another man. The trial court found the notes irrelevant to the charged events, but allowed defense counsel to inspect and litigate them while prohibiting disclosure of their contents to defendant because the notes were potentially embarrassing and inflammatory.

PROCEDURAL HISTORY

During defendant's trial for kidnapping, rape, and related crimes, the trial court reviewed in camera notes written by the complainant and conducted ex parte proceedings concerning whether the notes were Rosario or Brady

material. The court permitted defense counsel to review and litigate the notes but prohibited counsel from disclosing their contents to defendant and excluded the notes from trial. Defendant was convicted, the Appellate Division affirmed, and the Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Rosario, 9 N.Y.2d 286 (1961)
- Brady v. Maryland, 373 U.S. 83 (1963)
- People v. Andre W., 44 N.Y.2d 179, 184 (1978)
- People v. Consolazio, 40 N.Y.2d 446, 453 (1976), cert. denied, 433 U.S. 914 (1977)
- People v. Fuentes, 12 N.Y.3d 259 (2009)
- People v. Frost, 100 N.Y.2d 129, 132 (2003)
- Kentucky v. Stincer, 482 U.S. 730, 745 (1987)
- People v. Anderson, 16 N.Y.2d 282 (1965)
- Geders v. United States, 425 U.S. 80 (1976)
- People v. Enrique, 165 A.D.2d 13, 16, 20-22 (1st Dep't 1991), aff'd, 80 N.Y.2d 869 (1992)
- Perry v. Leeke, 488 U.S. 272, 283-285 (1989)