

NEW YORK COURT OF APPEALS

The People v. Levan Easley

Easley · No. No. 2 · Decided April 26, 2022

SUMMARY

The New York Court of Appeals affirmed the Appellate Division order in a memorandum decision involving the admission of DNA results generated by the Forensic Statistical Tool without a Frye hearing. The Court held that the admission was erroneous under *People v. Williams* and *People v. Foster-Bey* but that the error was harmless because the evidence of defendant's guilt was overwhelming. Judge Rivera, joined by Judges Wilson and Troutman, dissented, concluding that the DNA evidence was central to the prosecution's case and that the error was not harmless.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Chief Judge DiFiore; Judge Garcia; Judge Singas; Judge Cannataro; Judge Rivera; Judge Wilson; Judge Troutman
JURISDICTION	New York
DECIDED	April 26, 2022
DOCKET	No. 2
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from an Appellate Division order affirming his jury convictions for criminal possession of a weapon. The Court of Appeals granted leave to appeal and reviewed whether the admission of Forensic Statistical Tool-derived DNA evidence without a Frye hearing was harmless error.
STANDARD OF REVIEW	Under New York's nonconstitutional harmless-error standard, an error is harmless only if the evidence of guilt is overwhelming and there is no significant probability that the jury would have acquitted the defendant absent the error. The Court of Appeals' jurisdiction is limited to reviewing questions of law.
PRECEDENTIAL VALUE	Published New York Court of Appeals memorandum; majority holding is precedential, while the Rivera opinion is dissenting.
PARTIES	Levan Easley v. The People

TOPICS

evidence

criminal procedure

harmless error

appellate procedure

standard of review

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the trial court abused its discretion as a matter of law by admitting Forensic Statistical Tool-derived DNA results without first conducting a Frye hearing.
2. Whether the erroneous admission of the FST-derived DNA evidence was harmless under New York's nonconstitutional harmless-error standard.
3. Whether the Court of Appeals could independently assess the video recording and draw its own factual inference in reviewing harmless error.

HOLDINGS

1. The trial court abused its discretion as a matter of law by admitting DNA analysis conducted using the Forensic Statistical Tool without first holding a Frye hearing.
2. The erroneous admission of the FST-derived DNA evidence was harmless because the evidence of defendant's guilt was overwhelming and there was no significant probability that the jury would have acquitted him absent the error.

KEY QUOTATIONS

“It was an abuse of discretion for the trial court to admit the results of DNA analysis conducted using the Forensic Statistical Tool without first holding a Frye hearing” (at 1-2)

“Therefore, there is no significant probability that the jury would have acquitted defendant had it not been for this error” (at 2)

“Under the nonconstitutional standard, an error cannot be harmless—even when “the proof of the defendant’s guilt, without reference to the error, is overwhelming”—if “there is a significant probability, rather than only a rational possibility, in the particular case that the jury would have acquitted the defendant had it not been for the error or errors which occurred”” (at 5)

FACTUAL BACKGROUND

During an attack inside a deli store, several unidentified men tackled, pushed, and pinned defendant against store shelves. Police responding to a 911 call found a gun between boxes on a shelf near the location of the struggle, but no eyewitness saw defendant possess the gun, and the gun had no fingerprints or blood on it. The prosecution relied heavily on Forensic Statistical Tool-derived DNA analysis indicating that defendant could have contributed to DNA found on the gun's trigger, while standard DNA testing did not identify him as a major contributor. Video evidence showed defendant near the shelf, but the majority interpreted it as showing defendant place an item there, whereas the dissent disputed that interpretation.

PROCEDURAL HISTORY

A jury convicted defendant of various counts of criminal possession of a weapon, although it acquitted him of one count of criminal possession of a weapon in the second degree under Penal Law § 265.03(1)(b). The Appellate Division, Second Department, affirmed the conviction in 2019. After the Court of Appeals decided *People v. Williams* and *People v. Foster-Bey*, a Judge of the Court of Appeals granted defendant leave to appeal. The Court of Appeals held that admitting the FST-derived DNA results without a Frye hearing was error but affirmed because the error was harmless.

DISPOSITION

affirmed

CASES CITED

- *People v. Williams*, 35 NY3d 24 (2020)
- *People v. Foster-Bey*, 35 NY3d 959 (2020)
- *People v. Crimmins*, 36 NY2d 230, 241-242 (1975)
- *People v. Roberson*, 41 NY2d 106, 109 (1976)
- *People v. Lemmons*, 40 NY2d 505, 514 (1976)
- *People v. Leonti*, 18 NY2d 384, 390 (1966)
- *People v. Hylton*, 125 AD2d 409, 410 (2d Dept 1986), lv denied 69 NY2d 881 (1987)
- *People v. Chandler*, 121 AD2d 644, 646 (2d Dept 1986), lv denied 68 NY2d 913 (1986)

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