

SUPREME COURT OF CONNECTICUT

State v. Marrero-Alejandro, 324 Conn. 780

154 A.3d 1005 (2017) · No. SC 19559 · Decided March 14, 2017

SUMMARY

The Connecticut Supreme Court dismissed the defendant’s appeal as improvidently granted. The court reformulated the certified question concerning an unpreserved challenge to the admission of DNA evidence from a buccal swab taken after the defendant invoked his right to counsel, but did not reach the merits.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Rogers, C. J.; Palmer, J.; Eveleigh, J.; McDonald, J.; Espinosa, J.; Robinson, J.
JURISDICTION	Connecticut
DECIDED	March 14, 2017
DOCKET	SC 19559
DISPOSITION	dismissed
PROCEDURAL POSTURE	Certified appeal from the Appellate Court's affirmance of the defendant's murder conviction and sentence; the Supreme Court dismissed the appeal as improvidently certified.
STANDARD OF REVIEW	The Supreme Court examined the appellate record, briefs, and oral arguments to determine whether certification had been improvidently granted.
PRECEDENTIAL VALUE	published
PARTIES	Gilberto O. Marrero-Alejandro v. State of Connecticut

TOPICS

- appellate procedure
- preservation of error
- criminal procedure
- suppression of evidence
- right to counsel

PRACTICE AREAS

- criminal procedure
- appellate procedure
- constitutional law
- evidence

QUESTIONS PRESENTED

1. Whether the certified question accurately stated the issue actually presented and decided on appeal.
2. Whether the appeal should be dismissed because certification had been improvidently granted after the defendant failed to challenge the Appellate Court's conclusion that the buccal-swab challenge was unpreserved.

HOLDINGS

1. The certified question was reformulated to address whether the Appellate Court properly concluded that the defendant's unpreserved challenge to admission of the buccal-swab evidence did not present a question of constitutional magnitude.
2. The appeal was dismissed because certification had been improvidently granted.

KEY QUOTATIONS

"After examining the entire record on appeal and considering the briefs and oral arguments of the parties, we have determined that the appeal in this case should be dismissed on the ground that certification was improvidently granted." (154 A.3d 1005)

FACTUAL BACKGROUND

The defendant was convicted of murder arising from a 2010 shooting in Bristol. The challenged evidence consisted of DNA obtained from a buccal swab taken after the defendant had invoked his right to counsel. At trial, however, defense counsel informed the court that the motion to suppress was not directed at the buccal swab.

PROCEDURAL HISTORY

Following a jury trial, the defendant was convicted of murder and sentenced to sixty years of imprisonment. The Appellate Court affirmed, concluding that the defendant's challenge to the admission of DNA evidence from a buccal swab was unpreserved and did not satisfy the constitutional-magnitude requirement for review under *State v. Golding*. The Supreme Court granted certification but reformulated the certified question because the defendant did not challenge the Appellate Court's preservation ruling, and then dismissed the appeal as improvidently granted.

DISPOSITION

dismissed

CASES CITED

- *State v. Marrero-Alejandro*, 159 Conn. App. 376, 396-398, 122 A.3d 272 (2015)
- *State v. Golding*, 213 Conn. 233, 239-240, 567 A.2d 823 (1989)
- *State v. Ouellette*, 295 Conn. 173, 184, 989 A.2d 1048 (2010)
- *Rosado v. Bridgeport Roman Catholic Diocesan Corp.*, 276 Conn. 168, 191, 884 A.2d 981 (2005)

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