

NEW YORK COURT OF APPEALS

People v. Thompson

21 N.Y.3d 555 (2013) · Decided October 10, 2013

SUMMARY

The New York Court of Appeals held that defense counsel was not constitutionally ineffective for declining to use a peremptory challenge against a prospective juror who was a longtime friend of the prosecuting attorney. Although the court noted that the trial judge may have erred in denying the for-cause challenge and that counsel's decision was questionable, the error was not sufficiently egregious and prejudicial to deprive the defendant of effective assistance of counsel.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                           |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | New York Court of Appeals                                                                                                                                                                                                                                                                                 |
| WRITING FOR THE COURT | Smith, J.; Chief Judge Lippman; Judge Graffeo; Judge Read; Judge Pigott; Judge Rivera; Judge Abdus-Salaam                                                                                                                                                                                                 |
| JURISDICTION          | New York                                                                                                                                                                                                                                                                                                  |
| DECIDED               | October 10, 2013                                                                                                                                                                                                                                                                                          |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                  |
| PROCEDURAL POSTURE    | Defendant appealed from an order of the Appellate Division affirming his criminal conviction and raised an ineffective-assistance-of-counsel claim based on trial counsel's failure to exercise a peremptory challenge against a prospective juror who was a longtime friend of the prosecuting attorney. |
| STANDARD OF REVIEW    | The court evaluated the ineffective-assistance claim under the New York constitutional standard requiring counsel's error to be egregious and prejudicial and considered whether the alleged error deprived defendant of meaningful representation.                                                       |
| PRECEDENTIAL VALUE    | Published precedential opinion of the New York Court of Appeals                                                                                                                                                                                                                                           |
| PARTIES               | Thompson v. People of the State of New York                                                                                                                                                                                                                                                               |

TOPICS

- ineffective assistance
- right to counsel
- jury selection
- preservation of error
- criminal procedure

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether trial counsel rendered ineffective assistance by failing to use a peremptory challenge against a prospective juror who was a longtime friend of the prosecuting attorney.
2. Whether counsel's failure to exercise the peremptory challenge, thereby failing to preserve an appellate claim concerning the denial of the for-cause challenge, constituted ineffective assistance.

## HOLDINGS

1. Trial counsel's decision not to use a peremptory challenge against the prospective juror did not constitute ineffective assistance because the decision could have been a reasonable strategic or unconventional choice, and the record did not establish that the juror's presence impaired the fairness of the trial.
2. Even assuming counsel erred by failing to use a peremptory challenge to preserve appellate review of the denied for-cause challenge, the error was not sufficiently egregious and prejudicial to constitute ineffective assistance.

## KEY QUOTATIONS

*“Thus, defendant can prevail on his ineffective assistance claim only by showing that this is one of those very rare cases in which a single error by otherwise competent counsel was so serious that it deprived defendant of his constitutional right” (559)*

*“lawyers selecting juries are not ineffective because they make unconventional choices or play hunches.” (560)*

*“We conclude, however, that counsel’s mistake, if it was one, was not the sort of “egregious and prejudicial” error that amounts to a deprivation of the constitutional right to counsel” (561)*

## FACTUAL BACKGROUND

During voir dire, prospective juror William Peters disclosed that he had been friends with the Ulster County District Attorney for more than forty years, knew the prosecutor's wife, and occasionally socialized with him. The trial court denied defense counsel's for-cause challenge, and counsel did not use an available peremptory challenge, so Peters served on the jury. The jury acquitted defendant of second-degree murder but convicted him of manslaughter; the evidence included two bullet wounds, eyewitness testimony, and forensic evidence contradicting defendant's claim that the shooting was accidental.

## PROCEDURAL HISTORY

Defendant was tried for shooting and killing his girlfriend. The jury acquitted him of second-degree murder but convicted him of manslaughter. The Appellate Division affirmed, and a Judge of the New York Court of Appeals granted leave to appeal. The Court of Appeals affirmed.

## DISPOSITION

affirmed

#### CASES CITED

- People v. Thompson, 92 A.D.3d 1139 (3d Dep't 2012)
- People v. Turner, 5 N.Y.3d 476, 478, 481 (2005)
- People v. Stultz, 2 N.Y.3d 277, 283-284 (2004)
- People v. Benevento, 91 N.Y.2d 708, 713 (1998)
- People v. Turck, 305 A.D.2d 1072, 1073 (4th Dep't 2003)
- People v. Driscoll, 251 A.D.2d 759, 761 (3d Dep't 1998)
- People v. Thomas, 244 A.D.2d 271 (1st Dep't 1997)
- People v. Branch, 46 N.Y.2d 645, 651 (1979)
- People v. Caban, 5 N.Y.3d 143, 152 (2005)
- People v. Scott, 16 N.Y.3d 589, 595 (2011)
- People v. Blyden, 55 N.Y.2d 73, 78 (1982)
- 19 N.Y.3d 977 (2012)