

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

People v. Socciarelli

2022 NY Slip Op 01713 (App. Div. 2022) · No. 1165 KA 19-01167 · Decided March 11, 2022

SUMMARY

The New York Appellate Division, Fourth Department, affirmed Michael W. Socciarelli’s convictions for multiple sex offenses, rejecting challenges concerning the voluntariness of his statements, jury-note responses, prosecutorial misconduct, disclosure violations, sufficiency and weight of the evidence, and effectiveness of counsel. The court found a Rosario violation but held that the delayed disclosure did not substantially prejudice the defense and did not warrant a mistrial. In the interest of justice, the court modified the judgment to require the sentences to run concurrently, resulting in an aggregate term of 25 years’ imprisonment followed by 25 years of postrelease supervision.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Centra, J.P.; Peradotto, J.; Lindley, J.; Curran, J.; Winslow, J.
JURISDICTION	New York
DECIDED	March 11, 2022
DOCKET	1165 KA 19-01167
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Ontario County Court entered after a jury trial and convicting him of rape and other sexual offenses.
STANDARD OF REVIEW	Statements are reviewed under the voluntariness standards in CPL 60.45. Unpreserved claims were reviewed only if the court elected to exercise interest-of-justice discretion. Legal sufficiency was reviewed by viewing the evidence in the light most favorable to the People; weight of the evidence was reviewed in light of the elements charged to the jury. Ineffective-assistance claims were evaluated under the totality of the evidence, law, and circumstances as of the time of representation. Rosario and Brady disclosure claims were reviewed for substantial prejudice and meaningful and effective use at trial.

PRECEDENTIAL VALUE

Published New York Appellate Division opinion

PARTIES

Michael W. Socciarelli v. The People of the State of New York

TOPICS

criminal procedure

suppression of evidence

discovery criminal

prosecutorial misconduct

sentencing

PRACTICE AREAS

criminal law

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QUESTIONS PRESENTED

1. Whether defendant's statements to law enforcement were involuntary because the investigator's statement coerced him into confessing.
2. Whether defendant waived his challenge to the trial court's responses to two jury notes by requesting the responses given.
3. Whether defendant's prosecutorial-misconduct claim was preserved and warranted interest-of-justice review.
4. Whether delayed disclosure of the video violated Rosario and Brady and required a mistrial.
5. Whether the evidence was legally sufficient and whether the verdict was against the weight of the evidence.
6. Whether defendant was denied effective assistance of counsel.
7. Whether the aggregate sentence was unduly harsh and severe.
8. Whether the sentences should run concurrently.

HOLDINGS

1. The investigator's statement that police would assume defendant forcibly raped the victim unless he explained the events was a generalized comment about the benefits of cooperating and did not create undue pressure or a substantial risk of false self-incrimination; suppression was properly denied.
2. Defendant waived his challenge to the court's responses to two jury notes because the court gave the responses requested by the defense.
3. Defendant failed to preserve his claim of prosecutorial misconduct because he did not object to the alleged instances at trial, and the court declined to review the claim in the interest of justice.
4. The delayed disclosure of the video violated Rosario because the video was in the actual possession of a law-enforcement agency, but the violation did not require a mistrial because defendant failed to show substantial prejudice.
5. The alleged Brady violation did not require a mistrial because defendant received the video in time for meaningful and effective use at trial, and he knew or should have known of its existence and contents.

6. The evidence was legally sufficient to support the convictions, and the verdict was not against the weight of the evidence.
7. Defendant received meaningful representation and therefore was not denied effective assistance of counsel.
8. The aggregate 32-year sentence was unduly harsh and severe under the circumstances, so the court modified the judgment in the interest of justice to direct that all sentences run concurrently, resulting in 25 years of imprisonment plus 25 years of postrelease supervision.

KEY QUOTATIONS

*“The investigator’s statement was a “generalized comment to defendant regarding the benefits of cooperating with the police”” ([*1])*

*“defendant “ought not be allowed to take the benefit of the favorable charge and complain about it on appeal”” ([*1])*

*“reversal is required only “if the defense is substantially prejudiced by the delay”” ([*1])*

*“defendant has not made the necessary showing of substantial prejudice” ([*1])*

*“inasmuch as defendant received the material in time for its meaningful and effective use at trial” ([*1])*

FACTUAL BACKGROUND

The convictions arose from defendant's conduct with a minor who was physically helpless because of extreme intoxication. During the investigation, defendant made statements after an investigator said police would assume that defendant had forcibly raped the victim unless he provided his explanation. A video provided by a witness to an investigator was disclosed late, but the trial court gave the defense additional time to review it and an opportunity to recall witnesses. Defendant received an aggregate sentence of 32 years' imprisonment plus postrelease supervision.

PROCEDURAL HISTORY

The Ontario County Court entered judgment on April 25, 2019, after a jury convicted defendant of rape in the first degree, criminal sexual act in the first degree, rape in the third degree, sexual abuse in the first degree, and criminal sexual act in the third degree. On appeal, defendant challenged the voluntariness of his statements, jury-note responses, prosecutorial conduct, delayed disclosure of Rosario and Brady material, sufficiency and weight of the evidence, effectiveness of counsel, and sentence severity. The Appellate Division rejected the claims except that it exercised its interest-of-justice discretion to direct concurrent sentences.

DISPOSITION

affirmed

CASES CITED

- People v. Woods, 93 A.D.3d 1287, 1288 (4th Dep't 2012), leave denied, 19 N.Y.3d 969 (2012)

- People v. Clark, 194 A.D.3d 948, 951 (2d Dep't 2021), leave denied, 37 N.Y.3d 991 (2021)
- People v. Capella, 180 A.D.3d 498, 499 (1st Dep't 2020), leave denied, 35 N.Y.3d 968 (2020)
- People v. Backus, 67 A.D.3d 1428, 1429 (4th Dep't 2009), leave denied, 13 N.Y.3d 936 (2010)
- People v. Shaffer, 66 N.Y.2d 663, 665 (1985)
- People v. O'Neill, 169 A.D.3d 1515, 1515 (4th Dep't 2019)
- People v. Lostumbo, 182 A.D.3d 1007, 1009 (4th Dep't 2020), leave denied, 35 N.Y.3d 1046 (2020)
- People v. Streeter, 166 A.D.3d 1509, 1510 (4th Dep't 2018), leave denied, 32 N.Y.3d 1210 (2019)
- People v. Standsblack, 162 A.D.3d 1523, 1527 (4th Dep't 2018), leave denied, 32 N.Y.3d 1008 (2018)
- People v. Washington, 86 N.Y.2d 189, 192 (1995)
- People v. Martinez, 71 N.Y.2d 937, 940 (1988)
- People v. Lluveres, 15 A.D.3d 848, 849 (4th Dep't 2005), leave denied, 5 N.Y.3d 807 (2005)
- People v. Gardner, 26 A.D.3d 741, 741 (4th Dep't 2006), leave denied, 6 N.Y.3d 848 (2006)
- People v. Walters, 124 A.D.3d 1321, 1323 (4th Dep't 2015), leave denied, 25 N.Y.3d 1209 (2015)
- People v. Hines, 132 A.D.3d 1385, 1385 (4th Dep't 2015), leave denied, 26 N.Y.3d 1109 (2016)
- People v. LaValle, 3 N.Y.3d 88, 110 (2004)
- People v. Rivera, 82 A.D.3d 1590, 1592 (4th Dep't 2011), leave denied, 17 N.Y.3d 800 (2011)
- People v. Contes, 60 N.Y.2d 620, 621 (1983)
- People v. Bleakley, 69 N.Y.2d 490, 495 (1987)
- People v. Danielson, 9 N.Y.3d 342, 349 (2007)
- People v. Baldi, 54 N.Y.2d 137, 147 (1981)