

SUPREME COURT OF NEW JERSEY

State v. Molina; State v. Rucker; State v. Sterling; State v. Castro, 187 N.J. 531

902 A.2d 200 (2006) · Decided July 12, 2006

SUMMARY

The Supreme Court of New Jersey addresses when criminal defendants may obtain leave to file an appeal as within time after missing the ordinary appeal deadline. It holds that defendants properly advised of their appeal rights generally are not entitled to such relief, except upon proof that they timely requested an appeal and counsel failed to prosecute it; defendants not advised of their appeal rights may obtain relief if they apply within five years of sentencing. The court also requires written appeal-rights forms to be completed and retained as part of the sentencing process, and affirms the relief granted to the four defendants.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Justice Rivera-Soto; Chief Justice Poritz; Justice Long; Justice LaVecchia; Justice Zazzali; Justice Albin; Justice Wallace
JURISDICTION	New Jersey
DECIDED	July 12, 2006
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State appealed the Appellate Division's separate orders granting four criminal defendants leave to file notices of appeal as within time.
STANDARD OF REVIEW	The Supreme Court reviewed the Appellate Division's grant of leave to appeal as within time and articulated the governing legal standard for such applications.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of New Jersey
PARTIES	State of New Jersey v. Rosalinda F. Molina, Daniel Rucker, Oscar Sterling, Francisco Albert Castro

TOPICS

- appellate procedure
- due process
- criminal procedure
- right to counsel
- post-conviction relief

PRACTICE AREAS

criminal appellate procedure

criminal procedure

constitutional law

post-conviction relief

QUESTIONS PRESENTED

1. When and under what circumstances may a criminal defendant obtain leave to appeal as within time after the ordinary appeal period has expired?
2. Whether the forty-five-day appeal period under Rule 2:4-1(a), together with the possible thirty-day extension under Rule 2:4-4(a), provides criminal defendants a constitutionally meaningful opportunity to appeal.
3. Whether the court should require a written appeal-rights form and related sentencing procedures to ensure that defendants understand their appellate rights.

HOLDINGS

1. A defendant who was advised of the right to appeal as required by Rule 3:21-4(h) and failed to prosecute the appeal timely is presumptively not entitled to leave to appeal as within time. Relief may nevertheless be granted if the defendant proves, through the defendant's own certification and by a preponderance of the credible evidence, that the defendant timely requested an appeal and counsel failed to prosecute it.
2. A defendant who was not advised of the right to appeal as required by Rule 3:21-4(h) is entitled to leave to appeal as within time if the sentencing transcript confirms the omission and the application is filed no later than five years after sentencing.
3. The forty-five-day appeal period in Rule 2:4-1, together with the possible thirty-day extension in Rule 2:4-4(a), satisfies the constitutional requirement that criminal defendants receive a meaningful opportunity to be heard.
4. As an interim supervisory measure, sentencing courts must provide defendants with a written appeal-rights form, completed in duplicate by the defendant and counsel, review the form with the defendant, confirm on the record that the defendant understands the appellate rights, and retain one executed copy in the court file while the defendant retains the other.

KEY QUOTATIONS

“As an overarching principle, we hold that a defendant who has been advised of his right to appeal as provided under R. 3:21-4(h) and fails to prosecute his appeal in a timely manner is not entitled to as within time relief.” (203)

“As a limited exception to that rule, we hold that a defendant who has been advised of his right to appeal as provided under R. 3:21-4(h) and fails to prosecute his appeal in a timely manner may be entitled to as within time relief if he demonstrates, by his own certification and by a preponderance of the credible evidence, that the defendant did request the filing of an appeal in a timely manner and that counsel failed to prosecute it.” (203)

“We further hold that if a defendant has not been advised of his right to appeal as provided under R. 3:21-4(h), he is entitled to as within time relief provided the sentencing transcript confirms that he was not advised

of his right to appeal under the Rule, and his application for leave to appeal as within time is filed no later than five years from the date of his sentencing.” (203)

“We find that they do.” (206)

“In the future, before imposing sentence, trial courts are to provide defendants with a form, to be generated and executed in duplicate, a sample of which is reproduced as Appendix A.” (208)

FACTUAL BACKGROUND

Molina, Rucker, Sterling, and Castro each pleaded guilty to criminal charges and were sentenced to terms of imprisonment. Each defendant's forty-five-day period for filing a notice of appeal had expired, and the additional thirty-day extension period had also lapsed. The defendants submitted certifications explaining their failures to appeal timely; the State did not contest the factual allegations or demonstrate prejudice.

PROCEDURAL HISTORY

Each defendant had pleaded guilty and received a prison sentence. Their notices of appeal were untimely, and none qualified for the thirty-day extension under Rule 2:4-4(a). The Appellate Division granted each defendant leave to appeal as within time because the State did not contest the defendants' certifications and did not show prejudice. The Supreme Court of New Jersey granted and reinstated the State's appeals, consolidated them, and affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Bianco, 103 N.J. 383, 511 A.2d 600 (1986)
- State v. Altman, 181 N.J. Super. 539, 438 A.2d 576 (App. Div. 1981)
- State v. Cummings, 184 N.J. 84, 875 A.2d 906 (2005)
- State v. Lark, 117 N.J. 331, 567 A.2d 197 (1989)
- Boddie v. Connecticut, 401 U.S. 371, 377, 91 S. Ct. 780, 28 L. Ed. 2d 113 (1971)
- United States v. Robinson, 361 U.S. 220, 224, 80 S. Ct. 282, 4 L. Ed. 2d 259 (1960)
- United States v. Mathews, 462 F.2d 182, 183 (3d Cir. 1972), cert. denied, 409 U.S. 896, 93 S. Ct. 123, 34 L. Ed. 2d 153 (1972)
- Teague v. Lane, 489 U.S. 288, 301, 109 S. Ct. 1060, 334 L. Ed. 2d 349 (1989)