

NEW YORK COURT OF APPEALS

The People v. Clifford Graham

25 N.Y.3d 994 (2015) · No. No. 63 · Decided May 5, 2015

SUMMARY

The New York Court of Appeals affirmed the order below because the defendant failed to preserve for appellate review his argument that police were required to reread his Miranda rights during a second interview conducted at his request and initially in the presence of counsel. The Court held that the trial court had addressed counsel's continued presence, not the distinct Miranda issue raised on appeal.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Chief Judge Lippman; Judge Read; Judge Pigott; Judge Rivera; Judge Abdus-Salaam; Judge Stein
JURISDICTION	New York
DECIDED	May 5, 2015
DOCKET	No. 63
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from an order denying suppression of statements made during a second police interview. The Appellate Division affirmed, and the Court of Appeals granted leave to appeal but affirmed on preservation grounds.
STANDARD OF REVIEW	The Court of Appeals is generally limited by article VI, section 3 of the New York Constitution to reviewing questions of law, and under CPL 470.05 (2) reviews only issues preserved by a timely protest or expressly decided by the trial court.
PRECEDENTIAL VALUE	Published New York Court of Appeals memorandum decision; binding on preservation of appellate issues, but it did not decide the merits of the renewed-Miranda-warning claim.
PARTIES	Clifford Graham v. The People

TOPICS

preservation of error

appellate procedure

suppression of evidence

miranda rights

criminal procedure

PRACTICE AREAS

criminal procedure

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether defendant preserved for appellate review the issue of whether police were required to readvise him of his Miranda rights before the second interview.
2. Whether the Court of Appeals could review the merits of defendant's claim that counsel's presence did not eliminate the need for a renewed Miranda warning.

HOLDINGS

1. Defendant failed to preserve the issue of whether police were required to readvise him of his Miranda rights before the second interview because he did not raise that argument in his motion papers or at the suppression hearing, and the trial court did not expressly decide that issue.

KEY QUOTATIONS

“Inasmuch as defendant made only a general motion for suppression and it cannot be said that the court expressly decided the issue that defendant raises on this appeal, preservation has not been established and that issue is, therefore, beyond our power to review” (25 N.Y.3d 994)

FACTUAL BACKGROUND

Defendant was arrested after attempting to use counterfeit \$20 bills at a hotel and convenience store. He initially waived his Miranda rights but gave inconsistent answers, so detectives ended the interrogation and directed him to arrange any further discussion through defense counsel. About three weeks later, at defendant's request, counsel contacted the detectives; defendant consulted privately with counsel, and counsel was present for part of a second interview during which defendant made allegedly inculpatory statements, without receiving a new Miranda warning.

PROCEDURAL HISTORY

After a suppression hearing, Supreme Court denied defendant's motion to suppress statements from his second interview, reasoning that counsel's presence during the waiver of counsel was sufficient and that counsel's continued presence was not required. A jury convicted defendant of two counts each of criminal possession of a forged instrument in the first degree and petit larceny. The Appellate Division, Fourth Department, affirmed, and the Court of Appeals affirmed because defendant failed to preserve the Miranda issue he raised on appeal.

DISPOSITION

affirmed

CASES CITED

- *Miranda v. Arizona*, 384 U.S. 436 (1966)

- People v. Gray, 86 N.Y.2d 10, 19 (1995)
- People v. Hawkins, 11 N.Y.3d 484, 491 (2008)
- People v. Smith, 22 N.Y.3d 462, 465 (2013)
- People v. Prado, 4 N.Y.3d 725, 726 (2004)
- People v. Turriago, 90 N.Y.2d 77, 83-84 (1997)
- People v. Johnson, 83 N.Y.2d 831, 834 (1994)
- People v. Graham, 107 A.D.3d 1421, 1422-1423 (4th Dep't 2013)

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