

NEW YORK COURT OF APPEALS

In the Matter of Luz Solla v. Elizabeth Berlin

24 N.Y.3d 1192 (2015) · No. No. 24 · Decided February 19, 2015

SUMMARY

The New York Court of Appeals reversed an Appellate Division decision awarding attorneys' fees under New York's Equal Access to Justice Act. The court held that, even assuming the catalyst theory applied to the statutory definition of a prevailing party, the petitioner could not recover fees from the State because the State had not changed its position in response to the litigation. The court expressly declined to decide whether the catalyst theory is available under New York law.

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; Judge Fahey
JURISDICTION	New York
DECIDED	February 19, 2015
DOCKET	No. 24
DISPOSITION	reversed
PROCEDURAL POSTURE	Petitioner commenced an Article 78 proceeding seeking to compel city agencies to comply with and the state agency to enforce a fair-hearing decision. After the city agency restored the benefits and paid retroactive benefits, the proceeding became moot. Petitioner sought attorneys' fees under New York's Equal Access to Justice Act. Supreme Court denied fees, the Appellate Division reversed and awarded fees, and the Court of Appeals reviewed the certified question.
STANDARD OF REVIEW	Review of the certified question and application of the statutory prevailing-party requirement under CPLR article 86.
PRECEDENTIAL VALUE	Published memorandum opinion of the New York Court of Appeals; precedential.
PARTIES	Elizabeth Berlin v. Luz Solla

TOPICS

attorney fees

administrative law

statutory interpretation

mootness

appellate procedure

PRACTICE AREAS

administrative law

civil procedure

attorney fees

statutory interpretation

appellate procedure

QUESTIONS PRESENTED

1. Whether Solla was entitled to attorneys' fees from the State under New York's Equal Access to Justice Act based on the catalyst theory.
2. Whether, assuming the catalyst theory applied under CPLR article 86, the State had been prompted by Solla's lawsuit to change its position so that Solla could recover fees from the State.

HOLDINGS

1. Even assuming without deciding that the catalyst theory applies to the definition of a prevailing party under CPLR 8601, petitioner could not recover attorneys' fees from the State because the State had not changed its position in response to the lawsuit.

KEY QUOTATIONS

"The party from which plaintiffs seek their fees and costs must be prompted into action in order for fees to be recoverable" (- 5 -)

"It is unnecessary for us to decide whether the catalyst theory is New York law, and we take no position on that question at this time." (- 5 -)

FACTUAL BACKGROUND

The New York City Human Resources Administration reduced Luz Solla's shelter allowance. At a fair hearing before the New York State Office of Temporary and Disability Assistance, HRA agreed to reverse the reduction and restore lost benefits retroactively, and OTDA issued a decision consistent with that agreement. After Solla commenced an Article 78 proceeding, HRA restored the allowance and paid the retroactive benefits, while the State had consistently supported Solla's position.

PROCEDURAL HISTORY

The New York City Human Resources Administration agreed at a fair hearing to restore petitioner's shelter allowance and retroactive benefits, and the New York State Office of Temporary and Disability Assistance issued a decision reflecting that agreement. After HRA ultimately complied, Supreme Court dismissed the Article 78 proceeding as moot and denied petitioner's fee application. The Appellate Division reversed, recognized the catalyst theory, awarded attorneys' fees, and remanded for a hearing on the amount. The Court of Appeals reversed and denied fees.

DISPOSITION

reversed

CASES CITED

- *Buckhannon Board & Care Home, Inc. v. West Virginia Department of Health & Human Resources*, 532 U.S. 598 (2001)
- *Auguste v. Hammons*, 285 A.D.2d 417 (1st Dep't 2001)
- *Citizens Coalition for Block Grant Compliance, Inc. v. Euclid*, 717 F.2d 964 (6th Cir. 1983)
- *Omaha Tribe of Nebraska v. Swanson*, 736 F.2d 1218 (8th Cir. 1984)
- *Idaho Conservation League, Inc. v. Russell*, 946 F.2d 717 (9th Cir. 1991)

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