

COURT OF APPEALS OF THE STATE OF NEW YORK

People v. Parris; People v. Hofler

4 N.Y.3d 41, 823 N.E.2d 827, 790 N.Y.S.2d 421 (2004) · Decided December 21, 2004

SUMMARY

The New York Court of Appeals addressed whether the loss of court reporter minutes required reversal of criminal convictions or entitled defendants to reconstruction hearings. The court held that missing minutes alone do not require reversal, and that a reconstruction hearing is generally available to a defendant appealing after trial if the defendant acted diligently, but is available to a defendant who pleaded guilty only upon identification of an appealable issue related to the missing proceedings. The court affirmed the convictions of Peter Parris and Donnell Hofler.

CASE DETAILS

COURT	Court of Appeals of the State of New York
WRITING FOR THE COURT	R.S. Smith, J.
JURISDICTION	New York
DECIDED	December 21, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants appealed their convictions to the New York Court of Appeals after the Appellate Division affirmed in each case. They sought reversal or, alternatively, reconstruction hearings because portions of the trial or plea minutes had been lost.
STANDARD OF REVIEW	The court applied the presumption of regularity attaching to judicial proceedings and assessed whether the loss of minutes caused sufficient prejudice to require reversal or warranted a reconstruction hearing.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Peter Parris, Donnell Hofler v. The People of the State of New York

TOPICS

- appellate procedure
- criminal procedure
- preservation of error
- standard of review

PRACTICE AREAS

- criminal appellate procedure
- criminal procedure

QUESTIONS PRESENTED

1. Whether the inadvertent loss of court reporter minutes, standing alone, requires reversal of a criminal conviction.
2. Whether a defendant convicted after trial is ordinarily entitled to a reconstruction hearing when a significant portion of the minutes has been lost, and what diligence is required.
3. Whether a defendant who pleaded guilty is entitled to a reconstruction hearing without identifying an appealable issue based on the untranscribed proceeding.

HOLDINGS

1. The loss of reporter's minutes does not by itself require reversal. Reversal requires a showing that the missing minutes left inadequate means to determine whether appealable and reviewable issues were present, together with sufficient prejudice to overcome the presumption of regularity.
2. When a significant portion of the minutes has been lost, a defendant appealing a conviction after trial should normally have the opportunity for a reconstruction hearing if the defendant acted with reasonable diligence to mitigate the harm caused by the loss.
3. Parris was not entitled to a reconstruction hearing because he did not act diligently after learning that the minutes were missing.
4. A defendant who pleaded guilty is entitled to a reconstruction hearing only if the defendant identifies an appealable ground based on something that occurred during the untranscribed proceeding.
5. Hofler was not entitled to reversal or a reconstruction hearing because he identified no appealable issue to which the missing plea minutes were relevant.

KEY QUOTATIONS

“where a significant portion of the minutes has been lost: (1) a reconstruction hearing should normally be available for a defendant appealing his conviction after trial, if the defendant has acted with reasonable diligence to mitigate the harm done by the mishap; but (2) a defendant who has pleaded guilty is entitled to a reconstruction hearing only where he can identify a ground for appeal that is based on something that occurred during the untranscribed proceeding.” (44)

“To overcome the presumption of regularity, a defendant must show not only that minutes are missing, but also “that there were inadequate means from which it could be determined whether appealable and reviewable issues were present”” (46)

“A defendant who wants a reconstruction hearing, however, should be diligent in maximizing the possibility that such a hearing can accomplish its purpose.” (48)

“must set forth appealable grounds, i.e., the nature of those issues which would have been raised on appeal had the plea and sentence minutes been available.” (50)

FACTUAL BACKGROUND

In Parris's case, the reporter's minutes for proceedings concerning a motion to dismiss the indictment, a Sandoval motion, and jury selection were lost. He learned of the missing minutes in 2001 but waited approximately 18 months before requesting a reconstruction hearing and opposed a prosecution motion that could have expedited reconstruction. In Hofler's case, the minutes of his guilty plea proceeding were lost, but the sentencing minutes contained no motion to withdraw the plea or indication that the plea proceedings were defective, and he identified no appealable issue related to the missing minutes.

PROCEDURAL HISTORY

Parris was convicted after a jury trial and the Appellate Division affirmed, holding that he had not shown entitlement to reversal or reconstruction. Hofler pleaded guilty, and the Appellate Division affirmed on the basis of the presumption of regularity. The Court of Appeals affirmed both orders, but affirmed Parris on the ground that he had not acted diligently and affirmed Hofler because he identified no appealable issue connected to the missing minutes.

DISPOSITION

affirmed

CASES CITED

- People v. Sandoval, 34 N.Y.2d 371 (1974)
- People v. Glass, 43 N.Y.2d 283 (1977)
- People v. Rivera, 39 N.Y.2d 519 (1976)
- People v. Velasquez, 1 N.Y.3d 44, 49 (2003)
- People v. Mealer, 57 N.Y.2d 214 (1982)
- People v. Michalek, 82 N.Y.2d 906 (1994)
- People v. Taylor, 65 N.Y.2d 1, 5 (1985)
- People v. Lynn, 28 N.Y.2d 196, 201-202 (1971)
- Boykin v. Alabama, 395 U.S. 238, 243 (1969)
- People v. Lopez, 71 N.Y.2d 662 (1988)
- People v. Bell, 36 A.D.2d 406, 408 (2d Dep't 1971), aff'd without opinion, 29 N.Y.2d 882 (1972)