

NEW YORK COURT OF APPEALS

People v. Porto; People v. Garcia, Also Known as Rodriguez

People v. Porto, 16 N.Y.3d 93, 942 N.E.2d 283 (2010) · No. Nos. 219, 220 · Decided December 21, 2010

SUMMARY

The New York Court of Appeals affirmed the denial of motions to substitute appointed counsel in two criminal cases. The court held that the defendants' allegations did not establish a sufficiently serious complaint requiring further inquiry or good cause for substitution under the minimal-inquiry standard of *People v. Sides*.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Jones, J.; Chief Judge Lippman; Judge Ciparick; Judge Graffeo; Judge Read; Judge Smith; Judge Jones; Judge Pigott
JURISDICTION	New York
DECIDED	December 21, 2010
DOCKET	Nos. 219, 220
DISPOSITION	affirmed
PROCEDURAL POSTURE	Consolidated criminal appeals from orders of the Appellate Division, First Department, affirming Porto's burglary conviction and Garcia's conviction following a guilty plea and enhanced sentence. The Court of Appeals granted leave to appeal and affirmed both orders.
STANDARD OF REVIEW	Abuse of discretion in reviewing denial of a motion to substitute assigned counsel; the Court of Appeals also reviewed whether the trial court satisfied the required minimal inquiry after a sufficiently serious request.
PRECEDENTIAL VALUE	Published New York Court of Appeals majority opinion; binding precedent on the standards governing substitution of assigned counsel.
PARTIES	William Porto, Rodriguece Garcia, also known as Carlos Rodriguez v. The People of the State of New York

TOPICS

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PRACTICE AREAS

criminal procedure

constitutional law

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plea bargaining

sentencing

QUESTIONS PRESENTED

1. Whether Porto's motion to substitute assigned counsel required the trial court to make a minimal inquiry under *People v. Sides*.
2. Whether the trial court abused its discretion by denying Porto's motion after questioning defense counsel but not Porto directly.
3. Whether Garcia's motion to substitute assigned counsel, made at sentencing with a general allegation that counsel coerced his guilty plea, was adequately investigated and properly denied.
4. Whether Porto's enhanced sentence under New York's mandatory persistent violent felony offender statutes violated *Appendi*.

HOLDINGS

1. A trial court's duty to make at least a minimal inquiry into a request for substitution of assigned counsel is triggered only when the defendant makes a seemingly serious request supported by specific factual allegations of serious complaints about counsel. Substitution remains discretionary and is warranted only upon a showing of good cause.
2. The trial court did not abuse its discretion by denying Porto's motion to substitute counsel without directly questioning Porto because his form motion and counsel's explanation of his frustration did not contain specific factual allegations indicating a seemingly serious conflict or other good cause.
3. The trial court did not abuse its discretion by denying Garcia's motion to substitute counsel after conducting a sufficient minimal inquiry and determining that his vague claim of coercion lacked merit or substance.
4. Porto's challenge to New York's mandatory persistent violent felony offender statutes under *Appendi* was meritless.

KEY QUOTATIONS

"If such a showing is made, the court must make at least a "minimal inquiry," and discern meritorious complaints from disingenuous applications by inquiring as to "the nature of the disagreement or its potential for resolution"" (100)

"A blank form motion and defense counsel's explanation of defendant's "frustration" are not specific allegations obligating the trial court to conduct a minimal inquiry" (100-101)

FACTUAL BACKGROUND

Porto, charged with burglary after his fingerprint was recovered from a displaced cookie tin, submitted a form pro se motion for reassignment of counsel shortly before jury selection. His motion identified alleged failures to visit or consult with him and to provide motion, discovery, and bill-of-particulars materials, but he did not elaborate in the blank portion of the form; the trial court questioned defense counsel and denied substitution.

Garcia pleaded guilty to attempted first-degree robbery in exchange for a specified sentence, subject to a condition that he speak with probation about the incident. After he repeatedly declined to do so, he moved to withdraw his plea and substitute counsel, alleging generally that counsel had coerced the plea; the trial court questioned both Garcia and counsel, denied the motion, and enhanced the sentence.

PROCEDURAL HISTORY

Porto was convicted by a jury of second-degree burglary after the trial court denied his day-of-jury-selection motion to substitute counsel. The Appellate Division unanimously affirmed. Garcia pleaded guilty to attempted first-degree robbery under a plea agreement, later violated a condition requiring him to speak with probation, and moved to withdraw his plea and substitute counsel when the court indicated it would enhance his sentence; the trial court denied the motion and imposed an enhanced sentence, and the Appellate Division affirmed. The Court of Appeals affirmed in both cases.

DISPOSITION

affirmed

CASES CITED

- People v. Sides, 75 N.Y.2d 822 (1990)
- People v. Sawyer, 57 N.Y.2d 12, 18-19 (1982)
- People v. Medina, 44 N.Y.2d 199, 205, 207-208 (1978)
- People v. Linares, 2 N.Y.3d 507, 510-512 (2004)
- People v. Brabson, 9 N.Y.2d 173, 181 (1961)
- People v. Thompson, 32 A.D.3d 743 (1st Dept. 2006)
- People v. Stevenson, 36 A.D.3d 634, 635 (2d Dept. 2007)
- People v. Beriguet, 84 N.Y.2d 978, 980 (1994)
- People v. Arroyave, 49 N.Y.2d 264, 273 (1980)
- People v. Bryan, 31 A.D.3d 295, 296 (1st Dept. 2006)