

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

United States v. Calix

No. 18-1991-cr, United States Court of Appeals for the Second Circuit (September 12, 2019)

SUMMARY

The Second Circuit affirmed bank robbery convictions, holding that the entire period for competency evaluations was automatically excludable under the Speedy Trial Act regardless of reasonableness, and that an ends-of-justice continuance for continuity of counsel was properly granted. The court found no abuse of discretion in denying a fourth competency evaluation where prior evaluations and observations showed no change in the defendant's demeanor. The district court did not err in denying a new venire panel after the defendant's disruptive noises were heard, as the court excused affected jurors and provided a curative instruction.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	RICHARD C. WESLEY; DENNY CHIN; RICHARD J. SULLIVAN
JURISDICTION	Federal
DECIDED	September 12, 2019
DOCKET	18-1991-cr
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment of the United States District Court for the Southern District of New York (Preska, J.).
STANDARD OF REVIEW	Speedy Trial Act: findings of fact reviewed for clear error, legal conclusions de novo. Competency: factual determination reviewed for clear error, decision not to order hearing reviewed for abuse of discretion. Jury impartiality: manifest error standard.
PRECEDENTIAL VALUE	Unpublished
PARTIES	ANDRE CALIX v. UNITED STATES OF AMERICA

TOPICS

- criminal procedure
- speedy trial
- sixth amendment
- fifth amendment
- jury selection

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Calix's statutory right to a speedy trial under the Speedy Trial Act was violated by the delay for competency proceedings (August 28, 2014 to January 19, 2016).
2. Whether Calix's statutory right to a speedy trial was violated by the continuance from March 27, 2017 to September 11, 2017.
3. Whether Calix's Fifth Amendment right to due process was violated when the district court failed to order a fourth competency evaluation.
4. Whether Calix's Sixth Amendment right to an impartial jury was violated when the district court denied his request for a new venire panel after the panel heard him making noises.

HOLDINGS

1. The entire period was automatically excludable from the speedy trial clock because the Act excludes any period of delay resulting from any proceeding to determine mental competency, regardless of reasonableness.
2. The ends-of-justice continuance was proper because the finding that failure to grant the continuance would deny defense counsel reasonable time for effective preparation was not clearly erroneous.
3. The district court did not abuse its discretion in declining to order a fourth competency evaluation because the three prior evaluations and the court's own observations indicated no change in defendant's competency.
4. The district court did not commit manifest error by denying the request for a new venire because it excused affected jurors, gave a curative instruction, and took suitable steps to safeguard impartiality.

KEY QUOTATIONS

"We have held that § 3161(h)(1)(A) requires that delays associated with competency proceedings 'must be excluded from the calculation of the speedy trial clock whether or not they are reasonable.'" (3)

"the court found that failure to grant the adjournment would deny defense counsel the reasonable time necessary for effective preparation." (4)

"The court determined on the basis of multiple competency evaluations and the court's own observations of the defendant that no reasonable cause existed to order a competency hearing or yet another evaluation." (5)

"All of the potential jurors who indicated any sensitivity to the noises were ultimately excused from the venire. Thus, the court took suitable steps to safeguard the jury's impartiality." (6)

FACTUAL BACKGROUND

Calix was convicted of three counts of bank robbery. He exhibited disruptive behavior, underwent three competency evaluations, and made noises during jury selection.

PROCEDURAL HISTORY

Defendant-appellant Andre Calix appeals the judgment of the district court entered June 21, 2018, convicting him of three counts of bank robbery. He claims errors regarding speedy trial, competency, and jury impartiality.

DISPOSITION

affirmed

CASES CITED

- United States v. Lucky, 569 F.3d 101 (2d Cir. 2009)
- United States v. Vasquez, 918 F.2d 329 (2d Cir. 1990)
- Bloate v. United States, 559 U.S. 196 (2010)
- United States v. Magassouba, 544 F.3d 387 (2d Cir. 2008)
- United States v. Morrison, 153 F.3d 34 (2d Cir. 1998)
- United States v. Arenburg, 605 F.3d 164 (2d Cir. 2010) (per curiam)
- United States v. Zhou, 428 F.3d 361 (2d Cir. 2005)
- United States v. Ploof, 464 F.2d 116 (2d Cir. 1972)
- Skilling v. United States, 561 U.S. 358 (2010)
- Illinois v. Allen, 397 U.S. 337 (1970)