

NEW YORK COURT OF APPEALS

The People v. Steven Lashway

25 N.Y.3d 478 (2015) · No. No. 94 · Decided June 11, 2015

SUMMARY

The New York Court of Appeals held that a defendant seeking modification of a Sex Offender Registration Act risk-level classification was entitled to access documents reviewed by the State Board of Examiners of Sex Offenders. However, the court concluded that the hearing court did not abuse its discretion by denying an adjournment to obtain two missing emails because the record overwhelmingly supported denial of the modification and the defendant was not prejudiced. The order affirming denial of the modification was affirmed.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Pigott, J.; Chief Judge Lippman; Judge Read; Judge Rivera; Judge Abdus-Salaam; Judge Fahey; Judge Pigott; Judge Stein
JURISDICTION	New York
DECIDED	June 11, 2015
DOCKET	No. 94
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an Appellate Division order affirming County Court's denial of defendant's petition for downward modification of his SORA risk-level classification and denial of his request for an adjournment of the reclassification hearing.
STANDARD OF REVIEW	The Court of Appeals reviewed for legal error or lack of record support where County Court's findings were made under the proper clear-and-convincing-evidence standard and affirmed by the Appellate Division. The decision to grant an adjournment is ordinarily within the hearing court's discretion, although that discretion is more narrowly construed when fundamental rights are implicated.
PRECEDENTIAL VALUE	Published precedential opinion of the New York Court of Appeals
PARTIES	Steven Lashway v. The People

TOPICS

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QUESTIONS PRESENTED

1. Whether a petitioner seeking modification of a SORA risk-level classification is entitled to access documents reviewed by the Board of Examiners of Sex Offenders.
2. Whether County Court abused its discretion or violated due process by refusing to adjourn the reclassification hearing until the petitioner received two emails reviewed by the Board.

HOLDINGS

1. A petitioner seeking modification of a SORA risk-level classification has the same procedural due process right to access documents reviewed by the Board as a petitioner in an initial risk-level determination.
2. County Court did not abuse its discretion as a matter of law by denying Lashway's request for an adjournment, despite his entitlement to access the documents.

KEY QUOTATIONS

“Thus, defendant was entitled to access to the documents.” (25 N.Y.3d at 485)

“Under the circumstances of this case, it cannot be said the court abused its discretion as a matter of law in failing to adjourn the hearing to gather the two emails.” (25 N.Y.3d at 485-86)

FACTUAL BACKGROUND

Lashway was convicted in 1990 of three counts of second-degree rape involving an 11-year-old child and was later classified as a level-three sex offender under SORA. While civilly confined under Mental Hygiene Law article 10, he sought a downward modification of his risk level. At the reclassification hearing, the Board had provided most, but not all, of the documents it had reviewed, and County Court denied Lashway's request for an adjournment to obtain two missing emails. County Court denied modification based on Lashway's repeat sex-offender status, mental abnormality, parole violation, assaultive behavior, and multiple prison infractions.

PROCEDURAL HISTORY

Lashway petitioned County Court under Correction Law § 168-o for a downward modification of his risk level. County Court initially denied the petition without a hearing; the Appellate Division held that a hearing was required and remitted. After a reclassification hearing, County Court again denied modification and denied an adjournment sought to obtain two documents reviewed by the Board of Examiners of Sex Offenders. The Appellate Division affirmed, and the Court of Appeals affirmed that order.

DISPOSITION

affirmed

CASES CITED

- Doe v. Pataki, 3 F. Supp. 2d 456 (S.D.N.Y. 1998)
- People v. David W., 95 N.Y.2d 130, 140 (2000)
- People v. Singleton, 41 N.Y.2d 402, 405 (1977)
- People v. Spears, 64 N.Y.2d 698, 700 (1984)
- People v. Rodriguez, 102 A.D.3d 457, 457 (1st Dep't 2013), aff'd, 21 N.Y.3d 1030 (2013)
- 90 A.D.3d 1178 (3d Dep't 2011), leave dismissed, 18 N.Y.3d 945 (2012)
- 112 A.D.3d 1235 (3d Dep't 2013)
- Kropp v. Town of Shandaken, 91 A.D.3d 1087, 1092 (3d Dep't 2012)

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