

NEW YORK COURT OF APPEALS

People v. Rivera

16 N.Y.3d 654, 949 N.E.2d 964, 926 N.Y.S.2d 16 (2011) · No. No. 71 · Decided May 3, 2011

SUMMARY

The New York Court of Appeals held that a driver whose license had been revoked but who received a conditional license and violated its conditions could be prosecuted only for the traffic infraction of operating for an unauthorized use, not for aggravated unlicensed operation of a motor vehicle. The court relied on the statutory text and legislative history of Vehicle and Traffic Law § 1196 (7) (f). A dissent argued that the revocation remained effective outside the conditional license's permitted uses and that prosecution under the aggravated unlicensed operation statute was permissible.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Robert S. Smith, J.; Chief Judge Jonathan Lippman; Judge Robert S. Smith; Judge Ciparick; Judge Read; Judge Jones; Judge Graffeo; Judge Pigott
JURISDICTION	New York
DECIDED	May 3, 2011
DOCKET	No. 71
DISPOSITION	affirmed
PROCEDURAL POSTURE	The People appealed from an order dismissing before trial the first-degree aggravated-unlicensed-operation count of the indictment. The Appellate Division affirmed, and the New York Court of Appeals granted leave to appeal and affirmed.
STANDARD OF REVIEW	De novo review of the legal sufficiency of the indictment and the interpretation and interaction of the relevant Vehicle and Traffic Law provisions.
PRECEDENTIAL VALUE	Published opinion of the New York Court of Appeals; precedential.
PARTIES	The People of the State of New York v. Peter Rivera

TOPICS

statutory interpretation

legislative history

legislative intent

criminal procedure

PRACTICE AREAS

criminal law

statutory interpretation

motor vehicle law

QUESTIONS PRESENTED

1. Whether a person whose license was revoked but who received a conditional license may be prosecuted under Vehicle and Traffic Law § 511 for aggravated unlicensed operation when the person drives outside the conditions of the conditional license.
2. Whether Vehicle and Traffic Law § 1196(7)(f), which makes driving outside the authorized uses of a conditional license a traffic infraction, is the exclusive provision under which such conduct may be prosecuted.

HOLDINGS

1. A driver whose license has been revoked but who has received a conditional license and failed to comply with its conditions may be prosecuted only for the traffic infraction created by Vehicle and Traffic Law § 1196(7)(f), not for aggravated unlicensed operation under Vehicle and Traffic Law § 511.

KEY QUOTATIONS

“We hold that a driver whose license has been revoked, but who has received a conditional license and failed to comply with its conditions, may be prosecuted only for the traffic infraction of driving for a use not authorized by his license, not for the crime of driving while his license is revoked.” (16 N.Y.3d at 655-656)

“In sum, the Legislature decided not to amend section 511 to make what this defendant did a crime, but instead to make it a more serious traffic infraction; and the Assembly sponsor said plainly that he thought such offenders could be prosecuted only for traffic infractions.” (16 N.Y.3d at 659)

FACTUAL BACKGROUND

Rivera was convicted of driving while intoxicated, resulting in revocation of his driver's license for at least six months. He subsequently received a conditional license through a Department of Motor Vehicles rehabilitation program, authorizing driving only for specified purposes and during specified times. While the conditional license was in effect, he was arrested at 1:04 a.m. for driving while intoxicated after telling police he was coming from bars, and he was charged with first-degree aggravated unlicensed operation.

PROCEDURAL HISTORY

Rivera moved before trial to dismiss the count charging first-degree aggravated unlicensed operation of a motor vehicle under Vehicle and Traffic Law § 511(3). Supreme Court granted the motion. The Appellate Division affirmed on the ground that issuance of the conditional license superseded Rivera's revoked-license status. The Court of Appeals affirmed the dismissal, relying on the statutory language and legislative history of Vehicle and Traffic Law § 1196(7)(f).

DISPOSITION

affirmed

CASES CITED

- People v. Tousley, 86 Misc. 2d 1059 (Yates County Ct. 1976)
- People v. Sabin, 139 Misc. 2d 641 (Westchester County Ct. 1988)
- People v. Greco, 151 Misc. 2d 859 (App. Term 1992)
- People v. Buckley, 13 Misc. 3d 910 (Sullivan County Ct. 2006)
- People v. Mattocks, 12 N.Y.3d 326 (2009)
- People v. Eboli, 34 N.Y.2d 281 (1974)
- People v. Duffy, 79 N.Y.2d 611 (1992)
- Tzolis v. Wolff, 10 N.Y.3d 100 (2008)
- People v. Rivera, 71 A.D.3d 700 (2d Dep't 2010)
- People v. Rivera, 15 N.Y.3d 756 (2010)