

SUPREME COURT OF CONNECTICUT

Marquez v. Commissioner of Correction, 330 Conn. 575

198 A.3d 562 (2019) · No. SC 19889 · Decided January 15, 2019

SUMMARY

The Connecticut Supreme Court considered whether the state violated the petitioner's due process rights under Brady, Giglio, and Napue by failing to disclose an alleged leniency agreement with an accomplice witness and by failing to correct the witness's testimony concerning that agreement. The court assumed, without deciding, that an agreement may have existed but held that any nondisclosure was immaterial because the evidence of guilt was overwhelming and the witness's testimony was substantially corroborated and impeached. The court affirmed the Appellate Court's judgment and declined to adopt the petitioner's proposed supervisory rule requiring disclosure of certain representations to cooperating witnesses.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	D'Auria, J.; Palmer, J.; McDonald, J.; Robinson, J.; Kahn, J.
JURISDICTION	Connecticut
DECIDED	January 15, 2019
DOCKET	SC 19889
DISPOSITION	affirmed
PROCEDURAL POSTURE	Certified appeal from the dismissal of a habeas appeal. The petitioner challenged the denial of his state habeas petition alleging that the prosecution violated Brady, Giglio, and Napue by failing to disclose an alleged leniency agreement with a cooperating witness and by failing to correct the witness's testimony concerning that agreement.
STANDARD OF REVIEW	Materiality under Brady is a question of law reviewed plenary. A habeas petitioner ordinarily must show that denial of certification to appeal was an abuse of discretion, but the court may affirm on an alternative ground without deciding that issue when the petitioner cannot obtain relief even if the certified issue is resolved in the petitioner's favor.
PRECEDENTIAL VALUE	Published Connecticut Supreme Court opinion; binding state precedent.

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QUESTIONS PRESENTED

1. Whether the Supreme Court of Connecticut needed to decide whether the habeas court abused its discretion in denying certification to appeal.
2. Whether the alleged undisclosed leniency agreement between the state and Soler, and the state's failure to correct Soler's testimony denying such an agreement, were material under Brady and violated due process.
3. Whether the court should exercise its supervisory authority to require disclosure of representations concerning the potential disposition of a cooperating witness's pending criminal case before the witness testifies.

HOLDINGS

1. The court declined to decide whether the habeas court abused its discretion in denying certification because an alternative ground independently foreclosed habeas relief.
2. Even assuming the state failed to disclose an agreement with Soler and failed to correct Soler's testimony concerning it, the evidence was immaterial because there was no reasonable likelihood that disclosure would have affected the jury's judgment.
3. The court declined to exercise its supervisory authority to require the state to disclose every representation concerning the potential ultimate disposition of a cooperating witness's pending criminal case before the witness testifies.

KEY QUOTATIONS

"We do not consider whether the state had an undisclosed deal with Soler because, even if we assume that such an agreement was struck, we are nonetheless persuaded that there is no reasonable likelihood that disclosure of the agreement would have affected the judgment of the jury."

"Consequently, we conclude that there was no due process violation because the lack of any disclosure was immaterial under Brady v. Maryland."

"The judgment of the Appellate Court is affirmed."

FACTUAL BACKGROUND

During Marquez’s criminal trial for a robbery-related murder, accomplice Edwin Soler testified that Marquez was the gunman. Soler denied receiving or expecting consideration from the state, although the prosecutor and Soler’s counsel had discussed possible reductions or favorable treatment if Soler testified truthfully. After Soler testified, the state did not prosecute him for felony murder and instead obtained convictions for robbery-related offenses with a substantially lower sentence. The state’s case against Marquez also included two eyewitness identifications, Marquez’s statement placing himself at the crime scene and acknowledging that he held the gun, testimony that Marquez confessed to another inmate, and a letter showing an attempt to fabricate evidence against Soler.

PROCEDURAL HISTORY

Marquez was convicted in the Superior Court of felony murder and robbery-related offenses and received a fifty-year sentence, execution suspended after thirty-five years, followed by probation. This court affirmed the criminal judgment on direct appeal. The habeas court denied Marquez’s amended habeas petition and denied certification to appeal; the Appellate Court dismissed the appeal. The Supreme Court of Connecticut granted certification and affirmed the Appellate Court on the alternative ground that any nondisclosure or uncorrected testimony was immaterial under Brady.

DISPOSITION

affirmed

CASES CITED

- Brady v. Maryland, 373 U.S. 83, 87, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963)
- Giglio v. United States, 405 U.S. 150, 153, 92 S. Ct. 763, 31 L. Ed. 2d 104 (1972)
- Napue v. Illinois, 360 U.S. 264, 269-70, 79 S. Ct. 1173, 3 L. Ed. 2d 1217 (1959)
- State v. Marquez, 291 Conn. 122, 967 A.2d 56 (2009), cert. denied, 558 U.S. 895 (2009)
- Kaddah v. Commissioner of Correction, 299 Conn. 129, 135-36, 7 A.3d 911 (2010)
- State v. Ortiz, 280 Conn. 686, 717-20, 911 A.2d 1055 (2006)
- State v. Ouellette, 295 Conn. 173, 185-86, 989 A.2d 1048 (2010)
- State v. Jordan, 314 Conn. 354, 370-71, 102 A.3d 1 (2014)
- Jones v. State, 328 Conn. 84, 102-03, 177 A.3d 534 (2018)
- State v. Wilcox, 254 Conn. 441, 455, 758 A.2d 824 (2000)
- Andrades v. Commissioner of Correction, 81 Conn. App. 538, 540, 840 A.2d 1198 (2004)
- Adams v. Commissioner of Correction, 309 Conn. 359, 363-73, 71 A.3d 512 (2013)
- Hines v. Commissioner of Correction, 164 Conn. App. 712, 717-23, 138 A.3d 430 (2016)
- State v. Medrano, 308 Conn. 604, 630, 65 A.3d 503 (2013)
- State v. Hines, 243 Conn. 796, 815, 709 A.2d 522 (1998)
- State v. Holloway, 209 Conn. 636, 645, 553 A.2d 166 (1989), cert. denied, 490 U.S. 1071 (1989)
- Greene v. Commissioner of Correction, 330 Conn. 1, 27 & n.18, 190 A.3d 851 (2018)

- *Servello v. Commissioner of Correction*, 95 Conn. App. 753, 763, 899 A.2d 636 (2006), cert. denied, 280 Conn. 904, 907 A.2d 91 (2006)
- *United States v. Noze*, 255 F. Supp. 3d 352, 353-54 (D. Conn. 2017)
- *State v. DuBray*, 317 Mont. 377, 389-90, 77 P.3d 247 (2003)
- *State v. Jordan*, 135 Conn. App. 635, 667, 42 A.3d 457 (2012), rev'd in part on other grounds by *State v. Jordan*, 314 Conn. 354, 102 A.3d 1 (2014)

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