

NEW YORK COURT OF APPEALS

People v. Thomas

33 N.Y.3d 1 (2019) · No. No. 5 · Decided February 19, 2019

SUMMARY

The New York Court of Appeals held that the date on which a sentence was first imposed for a prior conviction, rather than the date of a later resentencing after the original sentence was vacated as illegal, controls the sequentiality requirement for predicate felony status under Penal Law § 70.06. The court concluded that the defendant’s 1989 convictions remained predicate felonies for his 1993 conviction, even though he was later resentenced on the 1989 convictions. The court reversed the Appellate Division and denied the defendant’s motion to set aside his sentence.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Stein, J.; DiFiore, C.J.; Garcia, J.; Feinman, J.; Fahey, J.; Rivera, J.; Wilson, J.
JURISDICTION	New York
DECIDED	February 19, 2019
DOCKET	No. 5
DISPOSITION	reversed
PROCEDURAL POSTURE	The People appealed from an Appellate Division order affirming Supreme Court's decision granting Michael Thomas's motion to set aside his sentence on a 1993 felony conviction and resentence him as a first-time offender. The New York Court of Appeals granted leave to appeal and reversed.
STANDARD OF REVIEW	De novo review of the interpretation and application of Penal Law § 70.06.
PRECEDENTIAL VALUE	Published precedential opinion of the New York Court of Appeals
PARTIES	The People of the State of New York v. Michael Thomas

TOPICS

- sentencing
- statutory interpretation
- post-conviction relief
- criminal procedure

PRACTICE AREAS

criminal law

criminal sentencing

statutory interpretation

post-conviction litigation

QUESTIONS PRESENTED

1. Whether the original sentencing date or the later resentencing date controls the sequentiality requirement under Penal Law § 70.06 (1) (b) (ii) when an original sentence is vacated as illegal but the underlying conviction remains valid.
2. Whether Thomas's 1989 convictions remained predicate felony convictions for purposes of his enhanced sentence on the 1993 felony.

HOLDINGS

1. The date on which sentence was first imposed on the prior conviction, rather than the date of a later resentencing on that conviction, controls under Penal Law § 70.06 (1) (b) (ii), even when the original sentence was later vacated as illegal and a new sentence was imposed.
2. Thomas's 1989 convictions remained predicate felony convictions, and he was properly sentenced as a second felony offender on the 1993 conviction.

KEY QUOTATIONS

“We hold that the date on which sentence was first imposed upon a prior conviction—not the date of any subsequent resentencings on that same conviction—is the relevant date” (33 N.Y.3d at 1)

“Therefore, because the original sentences on defendant’s 1989 convictions were imposed before commission of the present felony, the sequentiality requirement of the predicate felony statute was satisfied, and defendant was properly sentenced as a second felony offender.” (33 N.Y.3d at 14)

FACTUAL BACKGROUND

Thomas was convicted in 1989 of attempted robbery in the second degree and attempted robbery in the first degree and was erroneously sentenced as a second felony offender based on two 1988 youthful offender adjudications. In 1993, he was convicted of robbery in the third degree and sentenced as a second felony offender based in part on the 1989 convictions. After he had completed the 1989 sentences, the sentences were vacated as illegal and he was resentenced in 2009 and 2012 with reduced minimum terms, while the convictions remained undisturbed.

PROCEDURAL HISTORY

Thomas's 1989 sentences were vacated because he had been improperly sentenced as a second felony offender based on youthful offender adjudications that could not be used as predicate convictions. He was resentenced in 2009 and 2012. Thomas then sought to vacate his 1993 sentence, arguing that the later resentencings occurred after the 1993 felony and therefore defeated the sequentiality requirement for second-felony-offender status. Supreme Court ultimately granted relief after *People v. Esquiled*, and the Appellate Division affirmed. The Court of Appeals reversed and denied the motion.

DISPOSITION

reversed

CASES CITED

- People v. Kuey, 83 N.Y.2d 278, 283 (1994)
- People v. Esquiled, 121 A.D.3d 807 (2d Dep't 2014), leave denied, 25 N.Y.3d 1201 (2015)
- Matter of DaimlerChrysler Corp. v. Spitzer, 7 N.Y.3d 653, 660 (2006)
- People v. Andujar, 30 N.Y.3d 160, 166 (2017)
- Majewski v. Broadalbin-Perth Cent. Sch. Dist., 91 N.Y.2d 577, 583 (1998)
- People v. Roberts, 31 N.Y.3d 406, 418 (2018)
- People v. Silburn, 31 N.Y.3d 144, 155 (2018)
- Matter of Avella v. City of New York, 29 N.Y.3d 425, 434 (2017)
- People v. Thompson, 26 N.Y.3d 678, 687 (2016)
- People v. Duggins, 3 N.Y.3d 522, 528 (2004)
- People v. Bell, 73 N.Y.2d 153, 165 (1989)
- People v. Boyer, 22 N.Y.3d 15, 23-26 & n.3 (2013)
- People v. Sparber, 10 N.Y.3d 457 (2008)
- People v. Lingle, 16 N.Y.3d 621, 634-635 (2011)
- People v. Estremera, 30 N.Y.3d 268, 271 (2017)
- Matter of Chemical Specialties Mfrs. Ass'n v. Jorling, 85 N.Y.2d 382, 394 (1995)
- People v. Morse, 62 N.Y.2d 205, 219, 222 (1984), appeal dismissed, 469 U.S. 1186 (1985)
- People v. Walker, 81 N.Y.2d 661, 665 (1993)
- People v. Cagle, 7 N.Y.3d 647, 651 (2006)
- People v. Acevedo, 17 N.Y.3d 297, 303 (2011)