

NEW YORK COURT OF APPEALS

The People v. Joseph Sposito

No. 21 SSM 31 · No. No. 21 SSM 31 · Decided January 6, 2022

SUMMARY

The New York Court of Appeals affirmed the Appellate Division's order in a criminal case involving a claim of ineffective assistance of counsel. The court held that counsel's decisions regarding the defense strategy, waiver of a suppression hearing, admission of the defendant's statements, and use of expert witnesses were reasonable and did not deprive the defendant of meaningful representation. The memorandum was decided on submissions under section 500.11 of the court's rules, with one judge dissenting.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Chief Judge DiFiore; Judge Rivera; Judge Garcia; Judge Singas; Judge Cannataro; Judge Wilson
JURISDICTION	New York
DECIDED	January 6, 2022
DOCKET	No. 21 SSM 31
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed the Appellate Division's order rejecting his ineffective-assistance-of-counsel claims. The New York Court of Appeals reviewed the submissions pursuant to section 500.11 of the Rules and affirmed.
STANDARD OF REVIEW	The court reviewed defendant's ineffective-assistance claim under the New York meaningful-representation standard and the federal deficient-performance-and-prejudice standard.
PRECEDENTIAL VALUE	Published memorandum decision of the New York Court of Appeals
PARTIES	Joseph Sposito v. The People

TOPICS

[ineffective assistance](#)[right to counsel](#)[suppression of evidence](#)[criminal procedure](#)[evidence](#)

PRACTICE AREAS

criminal procedure

constitutional criminal procedure

ineffective assistance of counsel

criminal evidence

QUESTIONS PRESENTED

1. Whether trial counsel provided ineffective assistance by waiving a Huntley suppression hearing and allowing defendant's statements into evidence.
2. Whether trial counsel provided ineffective assistance by failing to consult or call expert witnesses.
3. Whether defendant established ineffective assistance under New York's meaningful-representation standard or the federal deficient-performance-and-prejudice standard.

HOLDINGS

1. Defendant failed to establish ineffective assistance because counsel's decision was consistent with a reasonable defense strategy directed at disproving the consent element, showing defendant's consistent account, limiting the damaging effect of the statements, and avoiding their use as impeachment material.
2. Defendant failed to establish ineffective assistance based on counsel's decision not to consult or call expert witnesses because counsel reasonably focused the jury on the chosen defense, was equipped to execute that strategy, and obtained key concessions from the People's experts.

KEY QUOTATIONS

“Defendant bears the burden of establishing his claim that counsel’s performance is constitutionally deficient by demonstrating the absence of strategic or other legitimate explanations for counsel’s alleged failures”

“Under the New York Constitution, “[i]n determining whether a defendant has been deprived of effective assistance, a court must examine whether ‘the evidence, the law, and the circumstances of a particular case, viewed in totality and as of the time of the representation, reveal that the attorney provided meaningful representation’”

“Counsel’s decision to waive the suppression hearing pursuant to People v Huntley (15 NY2d 72 [1965]) and allow defendant’s statements into evidence was in accord with a reasonable defense strategy of showing that defendant had consistently maintained that the acts in question were consensual.”

FACTUAL BACKGROUND

The case involved charged conduct for which consent was an element of the crime. Trial counsel pursued a defense focused on consent, waived a Huntley suppression hearing, and permitted defendant's statements into evidence to show that defendant consistently maintained the acts were consensual. Counsel also chose not to consult or call expert witnesses and obtained concessions from the People's experts on cross-examination.

PROCEDURAL HISTORY

The Appellate Division issued an order reported at 193 AD3d 1236 (2021). Defendant challenged trial counsel's decisions, including waiving a Huntley suppression hearing, admitting defendant's statements, and not

consulting or calling expert witnesses. The Court of Appeals affirmed in a memorandum; Judge Wilson dissented and would have ordered a new trial.

DISPOSITION

affirmed

CASES CITED

- People v Sposito, 30 NY3d 1110, 1111 [2018]
- People v Oliveras, 21 NY3d 339, 346 [2013]
- Baldi, 54 NY2d at 147
- Strickland v Washington, 466 US 668, 690-691 [1984]
- People v Caban, 5 NY3d 143, 155 [2005]
- People v Benevento, 81 NY2d 708, 714 [1981]
- People v Ellis, 81 NY2d 854 [1993]
- People v Lane, 60 NY2d 748, 750 [1983]
- People v Huntley, 15 NY2d 72 [1965]
- 193 AD3d 1236, 1243-1246 [2021]

OPINION

The People v. Joseph Sposito

PER CURIAM.

State of New York MEMORANDUM Court of Appeals This memorandum is uncorrected and subject to revision before publication in the New York Reports. No. 21 SSM 31 The People &c., Respondent, v. Joseph Sposito, Appellant. Submitted by Donna Aldea, for appellant. Submitted by Michael C. Wetmore, for respondent. MEMORANDUM: The order of the Appellate Division should be affirmed. “Defendant bears the burden of establishing his claim that counsel’s performance is constitutionally deficient by demonstrating the absence of strategic or other legitimate explanations for counsel’s alleged failures” (People v Sposito, 30 NY3d 1110, 1111 [2018] [cleaned up]). Under the New York Constitution, “[i]n determining whether a defendant has been deprived of effective assistance, a court must examine whether ‘the evidence, the -1- -2- SSM No. 31 law, and the circumstances of a particular case, viewed in totality and as of the time of the representation, reveal that the attorney provided meaningful representation’” (People v Oliveras, 21 NY3d 339, 346 [2013], quoting Baldi, 54 NY2d at 147). “Essential to any representation, and to the attorney’s consideration of the best course of action on behalf of the client, is the attorney’s investigation of the law, the facts, and the issues that are relevant to the case” (id. at 346, citing Strickland v Washington, 466 US 668, 690-691 [1984]). Under the United States Constitution, a party must “demonstrate both that counsel’s performance was deficient and

that the deficient performance prejudiced the defendant” (People v Caban, 5 NY3d 143, 155 [2005]). Defendant failed to demonstrate that counsel’s representation was ineffective. “[C]ounsel logically attempted to disprove an element of the charged crime”—the element of consent—“a standard defense tactic” (People v Benevento, 81 NY2d 708, 714 [1981], citing People v Ellis, 81 NY2d 854 [1993], and People v Lane, 60 NY2d 748, 750 [1983]). Counsel’s decision to waive the suppression hearing pursuant to People v Huntley (15 NY2d 72 [1965]) and allow defendant’s statements into evidence was in accord with a reasonable defense strategy of showing that defendant had consistently maintained that the acts in question were consensual. Counsel’s strategy also attempted to take the sting out of defendant’s statements and avoided the use of them as impeachment material, which could have cast doubt on defendant’s credibility. Contrary to defendant’s argument that trial counsel was required to consult with or call expert witnesses, counsel undertook a reasonable strategic choice to focus the jury on the chosen defense, counsel was well- -2- -3- SSM No. 31 equipped to execute the defense strategy, and counsel in fact obtained key concessions from the People’s experts on cross-examination (see Oliveras, 21 NY3d at 346). Defendant’s remaining contentions are without merit. On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge DiFiore and Judges Rivera, Garcia, Singas and Cannataro concur. Judge Wilson dissents and votes to reverse and order a new trial, for reasons stated in that portion of the dissenting opinion of Justice John P. Colangelo at the Appellate Division as concluded that trial counsel’s failures to consult or call expert witnesses deprived Mr. Sposito of meaningful representation (193 AD3d 1236, 1243-1246 [2021] [Colangelo, J. dissenting]). Decided January 6, 2022 -3-