

NEW YORK STATE COURT OF APPEALS

OPINIONS RELATIVE TO PROBATION

New York State Court of Appeals Decision - 3/26/98

People vs. Kim
91 NY 2d 407 (1998)

Points out that insurance companies can be awarded restitution and further more that all accomplices to a crime are jointly and severally liable for the full amount of restitution, rather than being responsible for only a fraction of the whole.

New York State Court of Appeals Decision - 2/17/87

People vs. Hall-Wilson

As a condition of Probation, restitution can be made to a corporation.

New York State Court of Appeals - 6/10/99

People vs. Bryan Hale

Upheld the validity of a search condition imposed upon a Suffolk County Probationer.

New York State Court of Appeals Decision - 7/6/89

Terminating parental rights of incarcerated parents.

New York State Court of Appeals- Matter of Decision - 5/5/87

Darvin M. vs. Thomas Jacobs

Commissioner of Probation violation proceeding in which Probation participated its own counsel - decided in Probation favor.

New York State Court of Appeals - 3/26/98

Challenge to amount of restitution levied on Probationer - Nassau County.

New York State Court of Appeals - 7/7/72

Court found age differential between male and female in PINS Family Court Act to be discriminatory and unconstitutional.

New York State Court of Appeals - 6/15/2000

New York State vs. David W.

Defendant was convicted in the Justice Court of the Town of Southampton of failing to register as a sexually violent predator under the Sex Offender Registration Act (SORA). He appealed to Appellate Court 2nd Dept. and was denied. Subsequently the Court of Appeals held initial risk level determination failed to comport with minimum state and federal due process. Motion to dismiss granted to defendant.

New York State Court of Appeals - 12/18/96

District Attorney of Westchester County vs. County Court Judge of Westchester County of Broome

The issue is whether a definite sentence that was imposed in conjunction with a term of Probation is a condition of or is subsumed within the probationary part of the sentence so that it can be modified or even eliminated pursuant to the discretionary authority conferred by CPL 410.20. Court of Appeals ruled that imprisonment part of split sentence is a penalty that exists separate and apart from the probationary period and that it cannot be altered once its service has begun.

New York State Court of Appeals - 6/6/96

Three (3) respondents, Raymond Kelly, Alphonso White and Charles Brown vs. People of State of New York

Court rules on whether or not prosecutors have obligation under Rosario to provide respondents with Division of Parole records to defense; Court ruled no.

New York State Court of Appeals - 2/19/98

Darryl Stevens and Bernard Smith vs. New York State

Appealed risk level determinations under the Sex Offender Registration Act (SORA) - Court rules risk level determination is not appealable.

New York State Court of Appeals - 5/16/99

New York State vs. Jose O. Hernandez

Defendant's certification as a sex offender pursuant to Sex Offenders Registration Act (SORA) is appealable as part of final judgment of conviction for sex offense resulting in certification.

New York State Court of Appeals - 6/4/69

Court ruled Probation Officers (Nassau County) were not required to give probationer, who had voluntarily come to the Probation Department seeking help for a companion with a narcotics problem, the Miranda Warnings before they inquired about the needle marks on probationer's own arm.

New York State Court of Appeals - 1973

In matter of Ellery C., person alleged to be in need of supervision, Appellant, Corporation Counsel City of New York, Respondent

Ruled PINS cases cannot be placed validly in a state training school with Juvenile Delinquents.

New York State Court of Appeals - 6/13/95

The People & C. Respondent vs. Roy C. Letterlough, Appellant

Court ruled that a sentencing Court could not impose a condition of probation requiring placement of a readily visible sign on the license plate of a probationer's vehicle stating "convicted DWI."

New York State Court of Appeals - 4/4/95

The People vs. Roosevelt Avery a/k/a Russell Anthony

Court ruled that a plea agreement which offered defendant a favorable sentence conditioned on his first entering and successfully completing a private drug rehabilitation program to be legal. (Amendment to CPL Sec. 400.10 (4) became effective 7/26/94 and replaced CPL Sec. 380.30 (3) which expired in 1994 pursuant to one year "sunset provision" - the latter governed this case).

New York State Court of Appeals - 4/30/91

In the matter of Rodney E., Appellant

The Court of Appeals ruled that the trial Court (Onondaga County) lacked authority to order a defendant placed on "Interim" Probation after conviction and prior to sentencing.

New York State Court of Appeals - 1/8/80

In matter of Lorie C., PINS, St. Lawrence County vs. St. Lawrence County Department of Social Services

Appeal was taken from an order of the Family Court, St. Lawrence County, putting into effect a plan establishing responsibilities, standards, and procedures relating to Juvenile Delinquents and PINS placed in family foster care homes pursuant to Section 255 of the Family Court Act. Court of Appeals held that the Family Court Act did not authorize the Family Court to put such above order into effect; order reversed.

New York State Court of Appeals -Exact Date Unknown, about late 70's

Pre-sentence disclosure: appeals by defendants Sheldon Selikoff; Tim Campbell and Robert Davidson

Issues arising from convictions based on negotiated guilty pleas:

1. Whether a defendant may show that his guilty plea to a lesser crime was induced by an off-the-record unfulfilled promise although contradicted by the recorded colloquy on the taking of a plea.
2. Whether a defendant is entitled to be sentenced as promised, or, if the Court cannot or will not sentence as promised.
3. Whether the defendant is entitled to no more than the right to withdraw his guilty plea. The presentence investigation plays a key role in this appeal.

Outcome: Appeals Court affirmed each conviction previously established.

New York State Court of Appeals - 6/9/75

In the matter of Edna Bowne and other respondents vs. Nassau County Appellant

Executive Law Sec. 256 (Laws of 1971, Chapter 387) places the Probation Department of Nassau County under the supervision and control of the County Executive. Prior to the effective date of this statute, this power had been exercised by the judiciary on the local level, and later by the judicial conference. The petitioners, employees of Probation, claimed that the above cited statute violated Article VI of the state constitution. The question is whether the Probation Department is constitutionally part of the Unified Court System as defined in Section 28, Article VI of the constitution. The Court of Appeals held that it was not. Thus Executive Law Sec. 256 (Laws of 1971, Chapter 387) was affirmed by the Court of Appeals.