
Motions

People v. Maynard, 80 Misc. 2d 279 - NY:
Supreme Court, New York 1974

1-13-1974

Legal Research and Witness List

Lewis Steel '63

MAYNARD

US v Kyle

297 F2d 507

* Barbee v Warden

331 F2d 842

US v Keph

391 F2d 138

US v Brauner

2d Cir

482 F2d 117

Barbee

- police withheld reports

copy language 846 -

Rules

17 Lrd 2d

737

Edward Rappaport

1/13/74

Margraef

United States v Miller

411 F2d 825 (2d Cir 1969).

Gov witness who was impeached on many grounds, also impeachable because he was hypnotized by Gov. First time defense didn't know, second time it did + participated.

Defense theory, 1st time implanted certain thoughts, affecting Δ ability to cross.

Abandoning
impeachment
evidence
831-2
HYP. , apparently negligently. It held even if he didn't recall it, negligence reduces standard of rationality.
May
reduce
standard
of rationality

Giglio v U.S 405 US 150, 31 L. Ed 2d 104

- Only witness linking Δ to crime
- Witness testified no promises
- promise made by one asst., by trial asst didn't know. or is asst didn't inform superior.
- Prior to trial, US Atty told Δ he would be prosecuted if he didn't testify, + would have to rely on DA's judgment if he did

Giglio cont. neg just as bad

"The prosecutor's office is an entity and as such it is the spokesman for the Gov."

Santobello v New York 404 U.S. 257, 262:

"The staff lawyers in a prosecutor's office have the burden of 'letting the left hand know what the right hand is doing or has done.'"

most recent application of Santobello in NY is

People v Gr. H. Th, 43 AD2d 20
(1st Dept 1973) (35 Law Reports)

where ~~unanimous~~ Ct held plea recommendation a deal which could not be withdrawn by DA's office.

Barbee

- fingerprints on gun
neg no excuse.
police rather D.A. no excuse.

US ex rel Tein

A.G.

Medical records made available to
Council of witness for purpose of preparing a
motion.
People v Salami 309 N.Y.2d 211 (1955).
MAYNARD

McCormick on Evidence 2d Ed
895

"The fact of mental 'abnormality' alter at the time of testifying will be provable, on cross or by extrinsic evidence, as bearing on cred. b. f. t."

Commonwealth v Towber

152 A.2d 917 (Penn Super 1959)

admission of hospital record showing commitment for mental treatment (improperly refused)

People v Rensing 14 NY2d 210 (1960)

250 NY2d 401

A

A convicted of murder. Confessed at trial — found in possession of murder weapon

Also testimony of Co A

After trial, Co A found insane + sent to Matteawan.

Council aware of mental illness at time

Motion
for
new
trial.
Newly
disc
evid

Krombholz mental condition
went back many years.

Had a head injury & a brain
operation in 1948

Required a new trial.

~~No question~~

Purely on the basis of newly
discovered ev'd. 440.10(5)

head injury

14 NYS2d 210

United States
v Robinson

316 FS 336 ✓

329 FS 727 (d) had core. other w. turned to same thing

49 ACR2d 1247(s) ✓

73 Md 544 - People v Bartholomew
lenient decision

People v Cieplinski 103 NYS2d 391
(Gen Sessions NY County 1951) Capozzoli, J.

D.A. did not know of mental history
~~discussed~~ by Counsel after trial.

D.A. agrees merely a question
of credibility. Regr / Rejected.

People v Robertson, Cox gave incorrect
testimony re having the ~~A~~ D in his
custody during interrogation. Mistaken re a
2 hour period.

unimpaired ^{that} not intentional -

12 NY2d 355, 360 (1963).

U.S. v. Peterson

329 F. Supp. 723 (Del. 1971)

Witness in question

by affiant referred to

as (very confused

border line schizophrenic

can't properly judge reality

confuses up fantasies

Prosecution denies knowledge of
witnesses treatment in Clinic

— No Brady question —

727 - Ample evidence without witnesses
testimony.

A whole series of witnesses, including
the F.B.I. Agent who was actually
assaulted, testified.

+ Counsel J. did not use
due diligence

Cieplinski

W.itness challenged was the only witness.

But did not fully tell personal history.

Bensin's

Witness sent to Kings City for observation prior to sentencing. -
Found to be suffering from long standing mental illness. Unaware of situation in - legally insane -
M. H. Pearson

Case diagnosed 16 years earlier -
after head injury & brain operation
as one of "Paranoid Schizophrenia"

Ct agreed his w.itness D. A. testimony not inadmissible.
May testify.

14
noted
at 2:13

However, jury would have known of long history of illness & not evaluated him as a "normal individual"

Ct Found:

2/4

Jury would have been entitled
~~able~~ to find Δ guilty
even without Prombholz's
testimony.

Assent

No evidence in record
pointing to ~~innocence~~

here an alibi.

Taborsky v State 142 Conn 619,
116 A.2d 433, 439 (1955)

only
it
yates
however,

Ct points out ^{that} the question of
mental cognition is different from
other forms of impeaching evidence.

States that although written attached as to
Credibility on other grounds, this type of
attack is not cumulative.

Taborsky Δ had alibi

Salemi

309 NY 208 128 N.E. 377

1) hospital records made available
for purpose of preparing motion

witness injured after the crime,
but before trial - then sent
to P. I. State. Self inflicted

Δ called a psychiatrist, who
didn't examine the witness.

suicide attempt brought out at
trial.

Consider all together

People v Robinson 27 NY2d 864

(1970), affirming 33 AD2d 1105.

No opinion on either of re
whether D could see hospital
records.

Obviously, D knew of hospitalization
at time of trial, so there must
have been some cross on
mental condition.

~~They will have~~

Wilson
v Boykin both CIV. CASES
in which ^{inmates} ~~persons~~ assaulted
by other inmates, and want their

records for purpose of and
suit.

Here, a witness testifies,
D must be able to defend
himself. Right of Confrontation