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**SUPREME COURT OF NEW YORK
KINGS COUNTY**

People v. Chapman¹
(decided September 19, 2005)

On April 2, 1997, Kareem Chapman was convicted of murder in the second degree and depraved indifference murder, for stabbing victim, Clement King, twenty-one times.² Defendant moved to vacate the conviction on several grounds, claiming that his rights under the United States Constitution³ and the New York State Constitution⁴ were violated. Specifically, he argued that his rights were infringed upon based on ineffective assistance of counsel and trial court error.⁵ The court rejected Chapman's claim and denied the motion to vacate the conviction.⁶

On September 6, 1996, Kareem Chapman stabbed Clement King twenty-one times with a Leatherman pocket tool while inside an elevator.⁷ Chapman's mother placed the 911 call and when the

¹ 805 N.Y.S.2d 792 (Sup. Ct. 2005).

² *Id.* at 793.

³ U.S. CONST. amend. VI states in pertinent part: "In all criminal prosecutions, the accused shall enjoy the right to . . . have the Assistance of Counsel for his defence."

⁴ N.Y. CONST. art. I, § 6 provides in pertinent part: "In any trial in any court whatever the party accused shall be allowed to appear and defend in person and with counsel as in civil actions and shall be informed of the nature and cause of the accusation and be confronted with the witnesses against him."

⁵ *Chapman*, 805 N.Y.S.2d at 793.

⁶ *Id.* at 797.

⁷ *Id.* at 793.

arresting officer arrived, the officer found King on the floor.⁸ Before King died, he identified Chapman as the individual who had stabbed him in a statement to the officer.⁹ When Chapman was arrested, his mother gave the police the Leatherman tool he had used in the stabbing.¹⁰

Chapman made statements to the police and the District Attorney's Office giving his description of the event that had transpired.¹¹ In his oral statement to the police and videotaped statement to the Assistant District Attorney, defendant explained that the incident had been preceded by a fist fight between defendant and King.¹² Defendant justified the stabbing as having been in self-defense, claiming that after the fist fight, King pulled out an icepick and pushed defendant into the elevator.¹³

Subsequently, a *Huntley* hearing was held to determine whether defendant's statements could be used as evidence at trial.¹⁴ The court found the statements to be admissible.¹⁵ At trial, defendant was convicted of murder in the second degree and depraved indifference murder; he was acquitted of intentional murder, and was subsequently sentenced to the minimum term of imprisonment for fifteen years.¹⁶ On appeal, the Appellate Division affirmed, but

⁸ *Id.*

⁹ *Chapman*, 805 N.Y.S.2d at 793.

¹⁰ *Id.*

¹¹ *Id.* at 793, 796.

¹² *Id.* at 796.

¹³ *Id.*

¹⁴ *Id.* at 793.

¹⁵ *Chapman*, 805 N.Y.S.2d at 793.

¹⁶ *Id.* at 793-94.

defendant then sought to vacate the conviction.¹⁷

As grounds for his motion to vacate, defendant alleged that the court insufficiently instructed the jury regarding his self-defense claim, and denied the entry of victim's criminal history in error.¹⁸ Defendant also asserted that the evidence inadequately supported the conviction, and that he did not receive effective assistance of counsel.¹⁹ Pursuant to Criminal Procedure Law section 440.10(2),²⁰ the court concluded that defendant's first three claims were procedurally barred in light of the fact that defendant had previously appealed the conviction.²¹ The court also found that the case was correctly considered a depraved indifference murder.²²

Defendant's final argument of ineffective assistance of counsel was rejected as well.²³ Defendant claimed that his attorney did not interview witnesses who would bolster his self-defense claim and consequently argued that his right to effective assistance of counsel guaranteed under the federal and state constitutions was denied.²⁴ The court disregarded this contention due to the fact that the only two people present at the time of the incident were defendant

¹⁷ *Id.* at 794.

¹⁸ *Id.*

¹⁹ *Id.* at 794-95.

²⁰ N.Y. CRIM. PROC. LAW § 440.10(2)(a) (McKinney 2005) states in pertinent part: "Notwithstanding the provisions of subdivision one, the court must deny a motion to vacate a judgment when: the ground or issue raised upon the motion was previously determined on the merits upon an appeal from the judgment"

²¹ *Chapman*, 805 N.Y.S.2d at 794. Defendant's first claim was procedurally barred in light of the fact that he had the opportunity to raise the issue on appeal. The court could not entertain defendant's second and third claims either on the grounds that defendant had already asserted the issues on the previous appeal. *Id.*

²² *Id.* at 797.

²³ *Id.*

²⁴ *Id.*

and King.²⁵ Therefore, there were no possible witnesses for counsel to interview, thus disparaging the import of defendant's claim.²⁶ The *Chapman* court, in holding that defendant's attorney did not fail in his obligation to represent him, stated, "defendant's attorney effectively made motions, conducted plea negotiations and preliminary hearings and cross-examined witnesses at trial."²⁷ The court also found that the attorney sought and obtained an investigator on behalf of his client.²⁸ Furthermore, defendant, in his own motion, complimented his attorney's advocacy and his attorney was also able to get the minimum sentence for defendant through his championing.²⁹

Within the Sixth Amendment's guaranteed right to a fair trial lies the framework of the adversarial system, which is built on the fundamental right to have access to counsel.³⁰ "The [Supreme] Court has recognized that 'the right to counsel is the right to the effective assistance of counsel.'"³¹ In *Strickland*, the Supreme Court of the United States enunciated a two part-test that must be met in order for a conviction to be set aside due to ineffective assistance of counsel.³²

²⁵ *Id.*

²⁶ *Chapman*, 805 N.Y.S.2d at 797.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.* Defendant stated in the motion that "the defense attorney . . . was right on point for raising a motion to dismiss for legal insufficiency at the ending of the testimony of the medical examiner's testimony." *Id.*

³⁰ See *Strickland v. Washington*, 466 U.S. 668, 684-85 (1984) (expressing that the underlying purpose behind the Sixth Amendment is to ensure a fair trial); see also *Gideon v. Wainwright*, 372 U.S. 335 (1963) (recognizing the Sixth Amendment's right to assistance of counsel as a constitutional safeguard).

³¹ *Strickland*, 466 U.S. at 686 (quoting *McMann v. Richardson*, 397 U.S. 759, 771 (1970)).

³² *Id.* at 687.

The defendant must establish that “counsel’s performance was deficient” and that “the deficient performance prejudiced the defense.”³³

In assessing whether to reverse a conviction on the basis of a defendant’s claim of ineffective assistance of counsel, the initial prong requires defendant to show that the seriousness of counsel’s errors were so great that he or she would not be considered to be functioning as counsel, as prescribed by the Sixth Amendment.³⁴ The *Strickland* Court applied the “reasonably effective” assistance standard to examine counsel’s performance, stating, “[t]he court must . . . determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance.”³⁵

The *Strickland* Court noted that the second part of the test requires that defendant show that he or she was prejudiced so as to not be afforded a fair trial with a reliable result.³⁶ A defendant must establish “that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.”³⁷ The Court emphasized that the mere error of an attorney alone would not necessarily enable a defendant’s conviction to be set aside if the judgment was not affected.³⁸

The Supreme Court held that respondent in *Strickland* had not

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* at 690.

³⁶ *Strickland*, 466 U.S. at 687.

³⁷ *Id.* at 694.

³⁸ *Id.* at 691.

sufficiently established that counsel's actions were unreasonable or that the respondent was prejudiced to such an extent as to deny him of his constitutional right to assistance of counsel.³⁹ Respondent challenged the efficacy of his attorney's representation based on the attorney's exclusion of certain evidence that he thought would be harmful to respondent's case and the attorney's alleged failure to perform a more thorough investigation.⁴⁰ To find that there was a deprivation of respondent's right, the Court expressed that it would be necessary for respondent to present a more meritorious claim.⁴¹ The Court found that although the attorney's strategy might have been flawed, it was not unreasonable.⁴²

In *People v. Aiken*, the New York Court of Appeals recognized two different standards that courts apply to determine whether a defendant has been denied the right to effective assistance of counsel.⁴³ The previous standard that had been applied in New York was a showing that counsel's representation "must not be such as to render the defendant's 'trial a farce and a mockery of justice.'" ⁴⁴ Later, a more stringent standard evolved requiring that an attorney provide "reasonable competence" in representing a defendant.⁴⁵ However, in *Aiken*, the New York Court of Appeals noted that more recently, the court required a showing that

³⁹ *Id.* at 698-99. Respondent was convicted of three counts of murder and sentenced to the death penalty and jail time after admitting to the crimes. *Id.*

⁴⁰ *Id.* at 675.

⁴¹ *Strickland*, 466 U.S. at 699-700.

⁴² *See id.* at 689, 698.

⁴³ 380 N.E.2d 272, 274 (N.Y. 1978).

⁴⁴ *Id.* at 274.

⁴⁵ *Id.*

defendant's representation "was adequate or effective in any meaningful sense of the words."⁴⁶ In expounding this standard, the court articulated a desire for a more "flexible framework within which to ensure a defendant's right to receive effective legal representation."⁴⁷

In New York, the facts of each particular case are analyzed, and a determination is made upon assessment of counsel's specific omissions and errors.⁴⁸ In *Aiken*, defendant contended that his attorney's choice not to cross-examine witnesses, not to offer an opening or closing statement, and failure to make certain objections, illustrated the ineffectiveness of counsel that he alleged.⁴⁹ Nevertheless the court held that defendant had received effective assistance of counsel concluding that the attorney's actions or omissions constituted reasonable and adequate trial strategy.⁵⁰

The New York Court of Appeals, in *People v. Baldi*, rejected defendant's claim of ineffective assistance of counsel in light of his attorney's tactical, reasonable approach.⁵¹ The court stated, "trial tactics which terminate unsuccessfully do not automatically indicate ineffectiveness."⁵² Particularly, defendant asserted that his attorney's failure to pursue a claim of innocence for defendant, the attorney's willingness to testify at certain hearings, his lack of effort given

⁴⁶ *Id.* at 275 (citing *People v. Droz*, 348 N.E.2d 880, 882 (N.Y. 1976)) (holding that defendant was denied effective assistance of counsel where his attorney did not sufficiently prepare for the case, therefore not adequately defending him).

⁴⁷ *Aiken*, 380 N.E.2d at 275.

⁴⁸ *Id.* at 274.

⁴⁹ *Id.*

⁵⁰ *Id.* at 274-76.

⁵¹ 429 N.E.2d 400, 406-08 (N.Y. 1981).

during evidentiary proceedings and his handling of witnesses, were all indicative of his ineffectiveness as defendant's counsel.⁵³

In concluding that defendant was not denied effective assistance of counsel, the court applied the standard that was followed in *Aiken*.⁵⁴ The *Baldi* court stated, “[s]o long as 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 [sic] representation, the constitutional requirement will have been met.”⁵⁵ The court found that although defendant's attorney could have made different decisions in the course of representation, his effort was nonetheless sufficient, and he competently handled the case.⁵⁶ The court noted that, “[h]indsight should not escalate what may have been a few tactical errors into ineffective assistance of counsel.”⁵⁷ In *Baldi*, within the purview of the context and circumstances surrounding the case, the attorney was deemed to have provided “meaningful representation” in that he had made reasonable, tactical decisions that were “accepted in the law.”⁵⁸ The *Baldi* court was consistent with *Aiken* in establishing that under both applicable standards, defendant was not denied of the right to the effective assistance of counsel.⁵⁹

In *Chapman*, defendant claimed that his attorney's alleged

⁵² *Id.* at 405.

⁵³ *Id.*

⁵⁴ *Id.*; *Aiken*, 380 N.E.2d at 275.

⁵⁵ *Baldi*, 429 N.E.2d at 405.

⁵⁶ *Id.* at 407-08.

⁵⁷ *Id.* at 407.

⁵⁸ *Id.* at 405-07.

⁵⁹ *Id.* at 408.

disingenuous attempt at representation resulted in a deprivation of defendant's guaranteed right to effective assistance of counsel.⁶⁰ However, defendant failed to establish that his attorney had exhibited any inadequacies in his representation.⁶¹ In determining whether Chapman's right had been violated, the court was explicit in its reliance on the standards provided in *Strickland* and *Baldi*.⁶² Although the *Chapman* court ultimately found that defendant had received effective assistance of counsel when analyzed under the scrutiny of both standards, the Court of Appeals also recognized that New York has been more lenient with defendants by providing a more flexible standard that must be met when bringing an ineffective assistance of counsel claim.⁶³ The New York Court of Appeals in *Chapman* looked to, and analyzed, the "totality of the circumstances" and found that the defendant had not been denied his guaranteed right to the effective assistance of counsel.⁶⁴

The right to the effective assistance of counsel has been firmly established as a fundamental right under the United States Constitution and the New York State Constitution. However, New York has taken a different approach in evaluating whether a defendant has been denied the right. While the Supreme Court has established a two-part test for the analysis, New York has deemed "meaningful representation" as sufficient in supporting counsel's

⁶⁰ See *Chapman*, 805 N.Y.S.2d at 793.

⁶¹ *Id.* at 797.

⁶² *Id.*; *Strickland*, 466 U.S. 668; *Baldi*, 429 N.E.2d 400.

⁶³ See *Chapman*, 805 N.Y.S.2d at 797 (acknowledging the standard set forth by the Supreme Court, but not necessarily requiring that the two-part standard be met).

⁶⁴ *Chapman*, 805 N.Y.S.2d at 797.

assistance. In *Chapman*, the court, in accord with previous New York Court of Appeals decisions, concluded that defendant had been “afforded more than meaningful representation,” but contemporaneously recognized and relied on the standards set forth by the Supreme Court in *Strickland*.⁶⁵ Although the United States Supreme Court and New York use differing standards, the United States Constitution and the New York State Constitution harmonize on the underlying notion that the right to effective assistance of counsel is fundamentally engrained in our adversarial system.

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⁶⁵ *Id.*; see *Aiken*, 380 N.E.2d at 275; see *Strickland*, 466 U.S. at 687.