

December 2014

## Court of Appeals of New York, *People v. Linares*

Ellyn Wilder

Follow this and additional works at: <https://digitalcommons.tourolaw.edu/lawreview>



Part of the [Constitutional Law Commons](#)

---

### Recommended Citation

Wilder, Ellyn (2014) "Court of Appeals of New York, *People v. Linares*," *Touro Law Review*: Vol. 21: No. 1, Article 11.

Available at: <https://digitalcommons.tourolaw.edu/lawreview/vol21/iss1/11>

This Effective Assistance of Counsel is brought to you for free and open access by Digital Commons @ Touro Law Center. It has been accepted for inclusion in Touro Law Review by an authorized editor of Digital Commons @ Touro Law Center. For more information, please contact [lross@tourolaw.edu](mailto:lross@tourolaw.edu).

---

## Court of Appeals of New York, People v. Linares

Cover Page Footnote

21-1

People v. Linares<sup>1</sup>  
(Decided June 3, 2004)

Defendant Linares was convicted of two counts of criminal sale of a controlled substance in the second degree and was sentenced “to concurrent terms of twelve years to life.”<sup>2</sup> During preliminary proceedings and throughout the trial, Linares repeatedly requested that the court assign him a new attorney.<sup>3</sup> Although Linares claimed that his assigned counsel was not acting in his best interests, the Supreme Court denied Linares’ request.<sup>4</sup> Upon appeal to the Appellate Division, Linares claimed “[the] Supreme Court’s refusal to furnish him with another lawyer effectively denied him his right to counsel under the federal<sup>5</sup> and state<sup>6</sup> constitutions.”<sup>7</sup> The Appellate Division rejected Linares’ argument because “Justice Kahn properly exercised her discretion in denying defendant’s request for new counsel.”<sup>8</sup> The Court of Appeals affirmed the Appellate Division’s decision, asserting that a trial court should only substitute counsel when the trial court failed to thoroughly evaluate a defendant’s complaint about

---

<sup>1</sup> 813 N.E.2d 609 (N.Y. 2004).

<sup>2</sup> *Id.* at 611.

<sup>3</sup> *Id.* at 610-11.

<sup>4</sup> *Id.* at 611.

<sup>5</sup> U.S. CONST. amend. VI provides in pertinent part: “In all criminal proceedings, the accused shall . . . have the Assistance of Counsel for his defense.”

<sup>6</sup> N.Y. CONST. art. I, § 6 states in pertinent part: “In any trial and in any court whatever the party accused shall be allowed to appear and defend in person and with counsel . . . .”

<sup>7</sup> *Linares*, 813 N.E.2d at 611.

<sup>8</sup> *Id.*

assigned counsel and “when a defendant can demonstrate ‘good cause.’”<sup>9</sup> While a criminal defendant is guaranteed “meaningful representation,” there is no constitutional assurance that the attorney-client relationship will be “harmonious.”<sup>10</sup> The Court of Appeals concluded that the defendant failed to show that assigned counsel was “deficient in representing him.”<sup>11</sup>

In October 1996, Linares was charged with “criminal sale of a controlled substance in the second degree.”<sup>12</sup> Prior to the trial, Linares expressed his discontent with his assigned counsel to the Supreme Court.<sup>13</sup> He argued that his attorney was not acting in Linares’ best interest and he planned to acquire a new attorney.<sup>14</sup> However, Linares remained with the same counsel that was assigned to him by the court.<sup>15</sup>

On February 23, 1998, at a Wade Hearing,<sup>16</sup> Linares was handcuffed while his attorney moved to suppress identification testimony.<sup>17</sup> Linares was handcuffed because his counsel claimed that Linares “verbally accused counsel and threatened to ‘cut’ his face.”<sup>18</sup> Linares denied these accusations, but stated he was

---

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 612.

<sup>11</sup> *Id.*

<sup>12</sup> *Linares*, 813 N.E.2d at 610.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> See *People v. Dixon*, 647 N.E.2d 1321, 1323 (N.Y. 1995) (explaining that “the purpose of a Wade Hearing [a pre-trial identification procedure] is to test identification testimony for taint arising from official suggestion during ‘police-arranged confrontations between a defendant and an eye-witness.’”) (quoting *People v. Gissendanner*, 299 N.E.2d 924, 930 (N.Y. 1979)).

<sup>17</sup> *Linares*, 813 N.E.2d at 610.

<sup>18</sup> *Id.*

unhappy with defense counsel because he had urged Linares to accept a plea offer.<sup>19</sup> Linares then requested that the court assign new counsel.<sup>20</sup> The Court denied Linares' request and stated that counsel was merely doing his duty in advising Linares to accept the plea offer.<sup>21</sup> The court further reasoned that Linares had not stated any specific objections as to counsel's failure to do his job.<sup>22</sup>

At trial, before a different judge, security measures were taken to protect defense counsel from Linares.<sup>23</sup> Defense counsel told the court that he would be able to represent his client despite Linares' threatening conduct.<sup>24</sup> Linares based part of his appeal on the fact that there was an ongoing disagreement between himself and counsel.<sup>25</sup> He argued that the supreme court's denial of substitution of counsel substantially affected his case and, specifically, he was denied his constitutional right to adequate counsel.<sup>26</sup>

In this case, the Court of Appeals held that Linares' constitutional right to effective representation by counsel was not violated.<sup>27</sup> The court acknowledged that Linares' appeal rested on whether he was wrongly denied a substitution of assigned

---

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Linares*, 813 N.E.2d at 610.

<sup>23</sup> *Id.* Specifically, a "plainclothes" investigator was hired to sit between the Linares and counsel. The court felt this would be less prejudicial for Linares than to have a uniformed officer between them. *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 612.

<sup>26</sup> *Id.* at 611.

<sup>27</sup> *Linares*, 813 N.E.2d at 612.

counsel.<sup>28</sup> In its reasoning, the court evaluated the standards for determining when a criminal defendant has received effective assistance of counsel.<sup>29</sup> The Court of Appeals found the supreme court's "inquiry into defendant's request for new counsel was diligent and thorough."<sup>30</sup> Specifically, defendant was allowed to raise his apprehensions about his attorney, and the supreme court "reasonably concluded that defendant's vague and generic objections had no merit or substance."<sup>31</sup> Defense counsel prepared Linares' case for over a year before Linares asserted a conflict with counsel.<sup>32</sup> In light of these considerations, the Court of Appeals affirmed the lower court's judgment.<sup>33</sup>

Under the United States Constitution, " 'it has long been recognized that the right to counsel is the right to effective assistance of counsel.' "<sup>34</sup> The Sixth Amendment guarantees an accused more than "competent counsel."<sup>35</sup> The Supreme Court has held that an attorney for the accused must act "in the role of an advocate."<sup>36</sup> The attorney must advise his client "within the range of competence demanded of attorneys in criminal cases."<sup>37</sup> The defendant's right to assistance of counsel "begins with the

---

<sup>28</sup> *Id.* at 610.

<sup>29</sup> *Id.* at 611-12.

<sup>30</sup> *Id.* at 612.

<sup>31</sup> *Id.*

<sup>32</sup> *Linares*, 813 N.E.2d at 612.

<sup>33</sup> *Id.*

<sup>34</sup> *United States v. Cronin*, 466 U.S. 648, 654 (1984) (quoting *McMann v. Richardson*, 397 U.S. 759, 711 (1970)).

<sup>35</sup> *Id.* at 655 n.11.

<sup>36</sup> *Id.* at 656 (citing *Anders v. California*, 386 U.S. 738, 743 (1967)).

<sup>37</sup> *Id.* at 655 (citing *McMann*, 397 U.S. at 770).

appointment of counsel, [yet] does not end there.”<sup>38</sup> However, in the absence of a specific prejudicial error on the part of counsel, a court will likely conclude that defendant’s Constitutional rights have been protected.<sup>39</sup>

When determining whether the defendant’s Sixth Amendment rights have been violated, the United States Supreme Court requires the criminal defendant to show that a “prejudicial error is made that clearly impairs a defendant’s constitutional rights.”<sup>40</sup> If the defense counsel “is a reasonably effective advocate,” then the defendant has been given adequate assistance of counsel under the Federal Constitution.<sup>41</sup> When evaluating whether a prejudicial error has been made, courts may evaluate counsel’s overall representation or any specific errors or omissions which the defendant claims as the basis for the ineffective assistance of counsel.<sup>42</sup> The burden is placed upon the criminal defendant to show that a prejudicial error has been made and his constitutional rights have been violated.<sup>43</sup> This is because the courts “presume that the lawyer is competent to provide the guiding hand that the defendant needs.”<sup>44</sup>

The Supreme Court has recognized specific circumstances in which defense counsel has made a prejudicial error and,

---

<sup>38</sup> *Id.*

<sup>39</sup> *Cronic*, 466 U.S. at 657 n.21.

<sup>40</sup> *Morris v. Slappy*, 461 U.S. 1, 14 (1983).

<sup>41</sup> *Cronic*, 466 U.S. at 657 n.21.

<sup>42</sup> *Id.* at 657 n.20.

<sup>43</sup> *Id.* at 658.

<sup>44</sup> *Id.*

therefore, the accused has not been given a fair trial.<sup>45</sup> For example, where counsel was assigned to represent both the accused and another defendant, the accused may be deprived the right to effective assistance of counsel guaranteed under the Sixth Amendment.<sup>46</sup> Under this circumstance, the defendant must demonstrate that “a conflict of interest on the part of counsel” has affected the defendant’s right to adequate counsel.<sup>47</sup>

Counsel may likewise be ineffective, even if counsel is present at the defendant’s trial, when “the likelihood that any lawyer, even a fully competent one, could provide effective assistance is so small that a presumption of prejudice is appropriate without inquiry into the actual conduct of the trial.”<sup>48</sup> In *Powell v. Alabama*,<sup>49</sup> counsel represented the defendants charged with rape during their arraignment, yet no counsel was assigned to them until one day before their trial began.<sup>50</sup> Defendants were found guilty and sentenced to death.<sup>51</sup> The Supreme Court found that the defendants’ constitutional rights had been violated because they did not have the aid of counsel from the time of their arraignment until the beginning of their trial.<sup>52</sup> The Court looked at various

---

<sup>45</sup> *Id.*

<sup>46</sup> *Glasser v. United States*, 315 U.S. 60, 76 (1942) (holding that counsel’s representation of Glasser and another defendant was prejudicial because evidence that was favorable to the first defendant was incriminating to the second defendant, thereby preventing counsel from representing both defendants adequately).

<sup>47</sup> *See id.*; *United States v. Burkeen*, 355 F.2d 241, 243-44 (6th Cir. 1966).

<sup>48</sup> *Cronic*, 466 U.S. at 659-60.

<sup>49</sup> 287 U.S. 45 (1932).

<sup>50</sup> *Id.* at 49.

<sup>51</sup> *Id.* at 50.

<sup>52</sup> *Id.* at 71.



factors, such as the defendants' illiteracy and youth, in making the determination that their due process rights have been violated.<sup>53</sup>

The Court has taken the position that a prejudicial error has not occurred merely because the defendant and his assigned counsel disagree or do not get along.<sup>54</sup> It concluded that "adequate assistance of counsel" under the Sixth Amendment of the United States Constitution does not guarantee a "meaningful" attorney-client relationship.<sup>55</sup> While the Sixth Amendment assures a defendant the right to "meaningful representation," it cannot possibly guarantee a "harmonious relationship" between the defendant and assigned counsel, especially where the defendant has demonstrated violent behavior towards counsel.<sup>56</sup>

The New York Court of Appeals has also recognized a duty to "carefully evaluate serious complaints about counsel."<sup>57</sup> An indigent defendant has the right to "effective" assistance of counsel under the Constitution.<sup>58</sup> In determining whether a defendant's right to effective assistance of counsel under the New York Constitution has been violated, a trial court should only substitute counsel when "good cause" has been shown.<sup>59</sup>

In evaluating whether good cause exists, the trial court may consider various factors. These factors include the timing in which the defendant has made his request for a substitution of counsel,

---

<sup>53</sup> *Id.*

<sup>54</sup> *Morris v. Slappy*, 461 U.S. 1, 13-14 (1983).

<sup>55</sup> *Id.*

<sup>56</sup> *Linares*, 813 N.E.2d at 612.

<sup>57</sup> *People v. Medina*, 375 N.E.2d 768, 772 (N.Y. 1978).

<sup>58</sup> *Id.*

the effect a change in counsel will have on the movement of the case, and “whether present counsel will likely provide the defendant with meaningful assistance.”<sup>60</sup> When concluding whether a defendant showed good cause, the courts acknowledge that each case is different, and take into account the facts of each individual case.<sup>61</sup>

In *People v. Medina*, the Court of Appeals recognized two specific instances where a trial court should find good cause for substitution of a defendant’s assigned counsel.<sup>62</sup> First, trial judges have been found to abuse their discretion where counsel has been assigned “to represent two defendants where a conflict of interest exists.”<sup>63</sup> Second, good cause will be shown if the attorney has “not adequately investigated his client’s history of mental disorder.”<sup>64</sup>

In addition to these two situations, the court in *People v. Sides* found that the trial court abused its discretion when they did not conduct an adequate examination of the defendant’s request for the assignment of new counsel.<sup>65</sup> Sides had complained to the court that he and his assigned counsel were engaged in “irreconcilable conflict.”<sup>66</sup> His attorney acknowledged that there was “a complete breakdown of communication and lack of trust

---

<sup>59</sup> *Linares*, 813 N.E.2d. at 611.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Medina*, 375 N.E.2d at 773.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> 551 N.E.2d 1233, 1235 (N.Y. 1990).

<sup>66</sup> *Id.*

had developed in their relationship.”<sup>67</sup> However, the court did not base its holding on this ground. Instead, it held that the trial court erred in not making a “minimal inquiry” into the severity of the disagreement.<sup>68</sup> The trial court must “carefully evaluate seemingly serious requests in order to ascertain whether there is indeed good cause for substitution.”<sup>69</sup>

However, good cause is not present when “defendants are guilty of delaying tactics or where, on the eve of trial, disagreements over trial strategy generate discord.”<sup>70</sup> The constitution guarantees a defendant “meaningful representation,” yet it would be impossible to ensure every defendant a “harmonious relationship” with his assigned attorney.<sup>71</sup> As long as counsel has represented the defendant’s interest, the trial court will not find good cause for substitution solely because counsel and the accused’s relationship was unpleasant.<sup>72</sup>

The federal and state constitutions both afford a criminal defendant the right to adequate assistance of counsel.<sup>73</sup> However, the United States Supreme Court and New York Court of Appeals take two different approaches in determining whether a defendant’s constitutional right has been violated. Under the Federal Constitution, the court must find that a prejudicial error was made that “clearly impairs a defendant’s constitutional rights”

---

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Linares*, 813 N.E.2d at 612.

<sup>71</sup> *Id.* See *Morris*, 461 U.S. 1, 13-14 (1983).

<sup>72</sup> *Linares*, 813 N.E.2d at 612 n.1.

and then the defendant will receive a new trial.<sup>74</sup> The Court takes this stringent approach in order to protect the victims and witnesses that were involved throughout the trial.<sup>75</sup> The Court promotes the encouragement of victims reporting crimes, and seeks to prevent a victim or witness in reliving a difficult time in their life.<sup>76</sup> While the state courts also require the defendant to show his constitutional rights have been violated, New York only requires a defendant to show “good cause” in order to obtain a substitution of assigned counsel.<sup>77</sup> This good cause standard requires the courts to inquire about defendants’ and counsels’ disagreements.<sup>78</sup> Both the Supreme Court and New York Court of Appeals recognize the importance of a defendant’s Constitutional right to effective assistance of counsel.<sup>79</sup> Although both the federal and state courts have different standards, both seek to ensure that the defendant receives a fair trial and will be adequately represented in a court of law.

*Ellyn Wilder*

---

<sup>73</sup> *Id.*

<sup>74</sup> *Morris*, 461 U.S. at 14.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Linares*, 813 N.E.2d at 611.

<sup>78</sup> *Sides*, 551 N.E.2d at 1235.

<sup>79</sup> See *Herring v. New York*, 422 U.S. 853, 862 (1975) (stating that “the very premise of our adversary system of criminal justice is that partisan advocacy on both sides of a case will best promote the ultimate objective that the guilty be convicted and the innocent go free.”); *People v. Koch*, 87 N.E.2d 417, 418 (N.Y. 1949) (holding that a defendant has the constitutional right to a fair trial).