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## Jurisdiction of the County Court

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## JURISDICTION OF THE COUNTY COURT

*N.Y. CONST. art. VI, § 11 (a):*

*The county court shall have jurisdiction over the following classes of actions and proceedings which shall be originated in such county court in the manner provided by law . . . .*

### COURT OF APPEALS

People v. Scalza<sup>798</sup>  
(decided October 18, 1990)

A criminal defendant, convicted of third-degree criminal possession of a weapon and ammunition, claimed that the state's Criminal Procedure Law section 255.20(4),<sup>799</sup> which allows for the delegation of pretrial hearings to an authorized judicial hearing officer (JHO), was violative of the New York State Constitution. The defendant asserted two claims: (1) that the statute, both facially and as applied, violated sections 10<sup>800</sup> and 11<sup>801</sup> of article VI as an unconstitutional delegation of judicial duties; and (2) that the statute violated the state constitution's due process clause.<sup>802</sup>

The court of appeals held that the statute was not facially unconstitutional under sections 10 and 11 of article VI and that it did not violate defendant's due process rights.<sup>803</sup> The court did

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798. 76 N.Y.2d 604, 563 N.E.2d 705, 562 N.Y.S.2d 14 (1990).

799. N.Y. CRIM. PROC. LAW § 255.20(4) (McKinney Supp. 1991).

800. N.Y. CONST. art. VI, § 10, cl. a. ("The county court is continued in each county outside the city of New York. There shall be at least one judge of the county court in each county and such number of additional judges in each county as may be provided by law. The judges shall be residents of the county and shall be chosen by the electors of the county.").

801. N.Y. CONST. art. VI, § 11, cl. a.

802. N.Y. CONST. art. I, § 6 ("No person shall be deprived of life, liberty or property without due process of law."). The defendant relied solely on the New York State Constitution. *Scalza*, 76 N.Y.2d at 606, 563 N.E.2d at 705-06, 562 N.Y.S.2d at 14-15.

803. *Scalza*, 76 N.Y.2d at 609-610, 563 N.E.2d at 707-08, 562 N.Y.S.2d at 16-17.

not address the defendant's claim that the statute was unconstitutional as applied because the defendant did not object to the qualifications of the JHO and, therefore, failed to preserve the claim for appeal.<sup>804</sup>

Prior to trial, the defendant filed a suppression motion with the county court wherein he asserted that the police obtained improper consent to search his home on the basis of threats made by the police. He also claimed that he was denied representation by counsel.<sup>805</sup> The county court, pursuant to section 255.20(4), referred the suppression motion to an authorized JHO.<sup>806</sup> Under this section, a JHO is responsible for gathering findings of facts, conclusions of law and making recommendations to the referring court regarding whether to grant or deny the suppression motion. In the case at bar, the JHO received defendant's motion and recommended that it be denied. The county court followed the JHO's recommendation and ultimately convicted the defendant of six counts of criminal possession of weapons and ammunition.<sup>807</sup>

On appeal, the court began its analysis by discussing the statutory intent and history of the challenged provision. The court observed that the statute was enacted to allow the trial judge more time to conduct more trials as opposed to hearing pre-trial motions, thereby reducing the backlog and delay of criminal trials.<sup>808</sup> In regard to the defendant's claim that the statute permits an unconstitutional delegation of a judicial duty, the court noted that the statute still "recognizes and preserves the trial court's nondelegable and exclusive authority to decide the suppression motion."<sup>809</sup> The section further provides that the trial judge retain "plenary power to reject, accept or modify the

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804. *Id.* at 610, 563 N.E.2d at 708, 562 N.Y.S.2d at 17.

805. *Id.* at 613 n.1, 563 N.E.2d at 710 n.1, 562 N.Y.S.2d at 19 n.1. (Titone, J., dissenting).

806. *Id.* at 606, 563 N.E.2d at 705, 562 N.Y.S.2d at 14. The defendant's suppression motion sought to exclude evidence of seized contraband and statements made by him to the police. *Id.* at 607, 563 N.E.2d at 706, 562 N.Y.S.2d at 15.

807. *Id.* at 606, 563 N.E.2d at 705, 562 N.Y.S.2d at 14.

808. *Id.* at 608, 563 N.E.2d at 706, 562 N.Y.S.2d at 15.

809. *Id.* at 608, 563 N.E.2d at 707, 562 N.Y.S.2d at 16.

JHO's report in whole or in part based on the court's independent review."<sup>810</sup> The court then concluded that there was no express or implied prohibitory language in the state constitution regarding the delegation of judicial duties. In fact, by increasing the amount of time the trial judge can devote to hearing criminal trials, the court observed that the statute "preserves and reinforces" the court's exclusive power to decide judicial matters.<sup>811</sup>

In response to defendant's due process claim, the court stated:

We have held that the due process claims under New York's Constitution, like those raised under the United States Constitution, require the balancing of factors -- 'an evaluation of the interests of the parties to the dispute, the adequacy of the contested procedures to protect those interests and the government's stake in the outcome.'<sup>812</sup>

In the case at bar, the court found that the defendant's due process rights were adequately protected by the procedures of the statute. The court noted that the defendant was entitled to a hearing before a JHO where he was permitted to submit his motion papers and arguments before a JHO. In turn, the JHO, after summarizing the facts and conclusions of law, recommended what action the trial court should take regarding the motion. As noted earlier, the trial court still had the discretion to abide by or disregard the JHO's recommendation. According to the court, while the defendant's motion was not personally heard before the trial judge, "the court 'heard' the motion in a customary juridical sense of that phrase (*e.g.*, deciding or reviewing a matter or record on submitted papers without oral presentation)."<sup>813</sup>

In addition, the court also found that the statute served the substantial state interest of reducing delays of criminal trials. The court noted that the "statutory procedure helps . . . by supplying the court system with the excellent resource of experienced former Judges who may hear, but not determine, time-consuming pretrial motions as judicial officers to sitting Judges so that the

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810. *Id.* at 608-09, 563 N.E.2d at 707, 562 N.Y.S.2d at 16.

811. *Id.* at 609, 563 N.E.2d at 707, 562 N.Y.S.2d at 16.

812. *Id.* at 610, 563 N.E.2d at 708, 562 N.Y.S.2d at 17 (citation omitted).

813. *Id.*

latter can concentrate efficiently on trying cases.”<sup>814</sup>

To bolster its argument, the court pointed to a federal statute which was similar to the challenged statute. Under the Federal Magistrates Act,<sup>815</sup> a federal district court judge is authorized to delegate to a magistrate the responsibility of gathering findings of fact and recommendations of a suppression motion. In *United States v. Raddatz*,<sup>816</sup> the United States Supreme Court held the act did not violate a criminal defendant’s due process rights under the Federal Constitution.<sup>817</sup> As in *Scalza*, the Supreme Court upheld the act since the district court was still “the ultimate decisionmaker . . . [and had] the broad discretion to accept, reject, or modify the magistrate’s proposed finding.”<sup>818</sup> The Court concluded that due process protections at a suppression hearing “may be less demanding and elaborate than the protections accorded the defendant at the trial itself.”<sup>819</sup>

On the issue of the constitutionality of the statute “as applied”, the court of appeals stated that they could not decide the issue “because the defendant failed to object to the qualification of the specific JHO to whom this pretrial matter was referred . . . .”<sup>820</sup> The court, however, noted that the requirements for a JHO had recently been “strengthened,”<sup>821</sup> which seemed to imply that prevailing on an as applied constitutional claim may be difficult.

Judge Titone’s lengthy dissent attacked the delegation of suppression hearings and the growing trend of such action throughout New York courts.<sup>822</sup> Judge Titone considered such delegation a “constitutional infirmity,”<sup>823</sup> and by adopting article VI, sec-

814. *Id.*

815. 28 U.S.C. § 636(b)(1) (1988).

816. 447 U.S. 667 (1980).

817. *Id.* at 680.

818. *Id.* at 680-81.

819. *Id.* at 679, *quoted in Scalza*, 76 N.Y.2d at 609, 563 N.E.2d at 708, 562 N.Y.S.2d at 17.

820. *Scalza*, 76 N.Y.2d at 610, 563 N.E.2d at 708, 562 N.Y.S.2d at 17.

821. *Id.* (citing N.Y. COMP. CODES R. & REGS. tit. 22, § 122.1(a) (1991)).

822. *Id.* at 611-13, 563 N.E.2d at 708-10, 562 N.Y.S.2d at 17-19 (Titone, J., dissenting).

823. *Id.* at 613, 563 N.E.2d at 710, 562 N.Y.S.2d at 19 (Titone, J.,

tions 10 and 11, “the people of this State have indicated their wish to have matters within the jurisdiction of the County Courts determined by judges who are county residents and are chosen by the county’s electors every 10 years.”<sup>824</sup> Furthermore, he attacked the lack of due process of such a statute because, *inter alia*, “the outcomes of suppression hearings implicate the basic liberty interests of the accused[]”<sup>825</sup> and “[a] rule that would allow a criminal defendant to face a jail sentence on the basis of factual findings made by one who has not heard the evidence is . . . foreign to notions of fair adjudicative procedure embodied in the Due Process Clause.”<sup>826</sup> Judge Titone focused on the fact that this appeal concerned a suppression hearing where the outcome turned on the credibility of the witness. The judge discussed how the nature of delegating such a hearing prevents the ultimate fact finder from seeing the witnesses during this pretrial motion, which, in his opinion, could have an enormous detrimental effect on the outcome of a future similar case.

Furthermore, Judge Titone attacked the growing trend of such delegation to ease the pressure on the New York court system, citing similar examples from the housing authority and family courts.<sup>827</sup> He stated that “[i]n light of this recent history, there is much room for concern about the gradual placement of the traditional judicial system with all its rigidities and awkwardness, in favor of one that is more efficient and flexible but rests heavily on the use of nonjudicial personnel.”<sup>828</sup>

*Scalza* represents a strong alignment between the court of appeals’ outlook on due process rights and that of the United States Supreme Court with regard to the delegation of judicial hearings.

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dissenting).

824. *Id.* at 613-14, 563 N.E.2d at 710, 562 N.Y.S.2d at 19 (Titone, J., dissenting).

825. *Id.* at 615, 563 N.E.2d at 711, 562 N.Y.S.2d at 20 (Titone, J., dissenting).

826. *Id.* (citing *United States v. Raddatz*, 447 U.S. 667, 697 (1980)) (ellipses in original) (Titone, J., dissenting).

827. *Id.* at 616, 563 N.E.2d at 712, 562 N.Y.S.2d at 21 (Titone, J., dissenting).

828. *Id.* (Titone, J., dissenting).

The court of appeals relied heavily on *Raddatz* for its validation of the Federal Magistrates Act in the delegation of United States District Courts' duties.

The dissent, however, while acknowledging that *Raddatz* "is all but dispositive of any claims . . . [of defendant] under the Due Process Clause of the Federal Constitution,"<sup>829</sup> noted that the New York Court of Appeals "remain[s] free to chart a separate course under our own State constitutional due process provisions,"<sup>830</sup> and could have done so.

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829. *Id.* at 614, 563 N.E.2d at 710, 562 N.Y.S.2d at 19 (Titone, J., dissenting).

830. *Id.* (Titone, J., dissenting).