



January 5, 2010

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On December 5, 2009, the New York Court of Appeals in *People v. Wrotten*, 2009 WL 4782864 (N.Y. December 5, 2009), sustained the use of remote two-way testimony in a criminal case. According to the complainant, an 83 year-old man then living in the Bronx, he had been attacked with a hammer by the defendant, a home health care aide, who demanded money. Subsequently, the complainant moved to California. The prosecution sought a “conditional examination” of the complainant, apparently a procedure similar to a deposition. Finding that that complainant was “frail, unsteady on his feet, and with a history of coronary disease could not travel to New York without endangering his health, and was therefore unavailable,” the trial court had permitted remote testimony. Subsequently, the complainant testified via live, two-way videoconferencing from a California courtroom.

The Court of Appeals, New York’s highest state court, sustained the testimony against an attack alleging that explicit statutory authority was necessary for it. In addition, the Court held that given the finding of necessity, the remote testimony complied with both the state and federal constitutions.

Of the Court’s seven judges, three concurred with the author of the opinion, the Chief Judge did not participate, and two judges dissented, one of whom dissented on constitutional grounds.

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