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NYS COURT OF APPEALS UPHOLDS CONVICTION IN MURDER OF TODDLER ON EASTER SUNDAY 2006

Bronx District Attorney Darcel D. Clark announced that the New York State Court of Appeals today has affirmed the conviction of Darrell Hemphill for the fatal shooting of two-year-old David Pacheco on Easter Sunday, 2006.

District Attorney Clark said, “We are pleased to see this conviction upheld. The horrific tragedy of David’s death endures for his family, and they need a measure of comfort that justice has prevailed, and the person responsible stands convicted and remains in prison.”

The conviction was overturned by the U.S. Supreme Court in January after it determined that telling jurors in Darrell Hemphill’s trial about statements made by another man who was not called as a witness to testify violated Mr. Hemphill’s Sixth Amendment right to confront a witness against him. Deputy General Counsel Gina Mignola argued the appeal before the U.S. Supreme Court.

The case went back to the New York State Court of Appeals to determine whether this error was harmless or whether it affected the jury’s verdict to such a degree that a new trial was necessary.

Assistant District Attorney Paul Andersen of the Appeals Bureau wrote the brief to the Court of Appeals and it was edited by Assistant District Attorney Noah Chamoy, Supervisor, Appeals Bureau; Yael Levy, Chief of the Appeals Bureau, and Deputy General Counsel Gina Mignola.

The Court determined that the evidence of the defendant’s guilt was overwhelming and also that there was no reasonable possibility that statements made by the other man contributed to the jury’s verdict.

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