

Supreme Court Strengthens Criminal Defendants' Confrontation Clause Rights

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On January 20, the Supreme Court issued a decision in [Hemphill v. New York](#), an important case concerning the rights of criminal defendants under the Sixth Amendment to confront witnesses against them in the courtroom.

A unique New York rule of criminal procedure allowed the prosecution to admit hearsay testimony from witnesses whom the defendant had no opportunity to cross-examine, when the trial judge determined that doing so was necessary to correct a “incomplete and misleading impression” created by the defendant’s evidence.

Selendy & Gay [filed an amicus brief](#) on behalf of the American Civil Liberties Union, the New York Civil Liberties Union, and the Rutherford Institute in support of Darrell Hemphill. As the brief explains, New York’s carve-out to the Confrontation Clause is inconsistent with Supreme Court precedent and severely curtails defendants’ ability to exercise their right to cross-examine witnesses.

In an 8-1 decision authored by Justice Sotomayor, the Court endorsed those arguments, holding that the New York rule is unconstitutional for many of the reasons put forward in the amicus brief. This is an important win for the rights of criminal defendants that will impact how criminal trials are conducted throughout the State of New York.

The Selendy & Gay Team

The Selendy & Gay team handling this matter included Caitlin Halligan, Adam Hersh and Claire O’Brien.

Attorney

- Claire O’Brien

Practices

- Appellate
- Public Interest and Pro Bono