

U.S. Supreme Court

Gardner v. Broderick, 392 U.S. 273 (1968)

Gardner v. Broderick

No. 635

Argued April 30, 1968

Decided June 10, 1968

392 U.S. 273

Syllabus

Appellant, a police officer, was subpoenaed by and appeared before a grand jury which was investigating alleged bribery and corruption of police officers, and was advised that the grand jury proposed to examine him concerning the performance of his official duties. He was advised of his privilege against self-incrimination, but was asked to sign a "waiver of immunity" after being told that he would be fired if he did not sign. He refused to do so, was given an administrative hearing, and was discharged solely for his refusal, pursuant to § 1123 of the New York City Charter. The New York Supreme Court dismissed his petition for reinstatement, and the New York Court of Appeals affirmed, holding that *Garrity v. New Jersey*, [385 U. S. 493](#), was not controlling, and distinguishing *Spevack v. Klein*, [385 U. S. 511](#) (both decided after appellant's discharge).

Held: If appellant, a policeman, had refused to answer questions directly relating to the performance of his official duties, without being required to waive his immunity with respect to the use of his answers or the fruits thereof in a criminal prosecution of himself, *Garrity*, *supra*, the privilege against self-incrimination would not have been a bar to his dismissal. However, his dismissal solely for his refusal to waive the immunity to which he is entitled if he is required to testify despite his constitutional privilege, and the New York City Charter provision pursuant to which he was dismissed, cannot stand. Pp. [392 U. S. 276-279](#).

20 N.Y.2d 227, 229 N.E.2d 184, reversed.