

# A RATHER SAD ENDING FOR DAN

The New York Court of Appeals today issued its decision denying Dan Rather's appeal from the dismissal of his civil case. In light of the fact his case was pled and litigated under New York state law in state courts, this is, sadly, likely the last act in the play.

Dan Rather's personal statement on the decision:

Naturally I am disappointed in today's ruling because we know it is a grave miscarriage of justice.

Most of all I am disappointed that no court or jury studied the evidence and heard the actual facts of the case. The case was dismissed on purely technical grounds.

My mission continues to be working to ensure that the media can gather and report news unfettered by the influence of government and major corporate interests.

Dan Rather

This stems from a decision by the New York Appellate Division last September, specifically September 29, 2009. It was a horrible decision on a number of grounds, a [copy attached here](#), but it was decided 5-0 by the Appellate Division which made the odds of the Court of Appeals granting the request to appeal slim.

Under New York state law and procedure, you need permission to appeal to the Court of Appeals from a unanimous Appellate Division decision. Either the Appellate Division has to give permission or Court of Appeals has to give permission; but there was no appeal as of a matter of right for Dan, and the Court of Appeals refused his request.

The decision last September by the Appellate Division was horrid and truly questionable legally, at least in my opinion, notably in the way it cut off the very discovery that could, and would, have provided the basis to overcome the deficiencies the court focused on. In essence, the appellate court prevented Rather from demonstrating his case, and then dismissed it because he had not demonstrated his case. Irrespective of that, however, the decision stands and Dan Rather appears unjustifiably done. Courage Dan!