

SUPREME COURT OF WYOMING

Schade v. State

2002 WY 133 (Wyo. 2002) · No. No. 01-52 · Decided September 6, 2002

SUMMARY

The Supreme Court of Wyoming affirmed Sidney Schade’s convictions and consecutive prison sentences following his guilty pleas to two counts of immoral or indecent acts with a minor. The court held that the State did not breach the plea agreement, the guilty pleas were knowing and voluntary under Wyoming Rule of Criminal Procedure 11, and the sentencing delay was reasonable because it resulted from Schade’s requests to pursue alternative placement programs.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Kite, Justice; Hill, C.J.; Golden, J.; Lehman, J.; Kite, J.; Voigt, J.
JURISDICTION	Wyoming
DECIDED	September 6, 2002
DOCKET	No. 01-52
DISPOSITION	affirmed
PROCEDURAL POSTURE	Schade appealed his judgment and sentence after pleading guilty to two counts of immoral or indecent acts with a minor and receiving consecutive prison terms of three to five years.
STANDARD OF REVIEW	Whether the State breached a plea agreement is reviewed de novo. Speedy-sentencing claims are reviewed for abuse of discretion. Plea voluntariness is determined under the totality of the circumstances.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion
PARTIES	Sidney R. Schade v. The State of Wyoming

TOPICS

- plea bargaining
- criminal procedure
- sentencing
- appellate procedure
- standard of review

PRACTICE AREAS

- criminal procedure
- plea bargaining
- sentencing
- appellate procedure

QUESTIONS PRESENTED

1. Whether the State breached the first plea agreement by revoking Schade's bond and thereby preventing him from obtaining a sex-offender evaluation.
2. Whether Schade's guilty pleas were involuntary because the district court failed to advise him of the consequences of violating the plea agreement.
3. Whether the district court violated Wyoming Rule of Criminal Procedure 11(e)(2) by failing to advise Schade that he could not withdraw his guilty plea if the court rejected the sentencing recommendation.
4. Whether the delay of more than one year between Schade's guilty pleas and sentencing violated due process or constituted impermissible delay.
5. Whether the sentence was illegal because of allegedly illegal interim probationary terms.

HOLDINGS

1. The State did not breach the first plea agreement because Schade failed to obtain the sex-offender evaluation during the period before his arrest, and the first agreement was subsequently replaced by a second plea agreement that eliminated the evaluation requirement and instead conditioned the probation recommendation on acceptance into an intensive-supervision or comparable program.
2. The district court complied with Wyoming Rule of Criminal Procedure 11(d), and Schade's guilty pleas were knowing and voluntary because the record showed that he understood the agreement's conditions and entered the pleas without threats or improper promises.
3. Rule 11(e)(2) did not require the district court to advise Schade that he could not withdraw his guilty pleas because the second plea agreement's probation recommendation was conditional on program acceptance, Schade failed to satisfy that condition, and no probation recommendation was made or rejected by the court.
4. The sentencing delay did not violate due process and was not an abuse of discretion because the State demonstrated that the delay resulted from Schade's requests for continuances and efforts to obtain alternative community placement.

KEY QUOTATIONS

“whether the government has breached a plea agreement is reviewed de novo.” (53 P.3d at 553)

“It is axiomatic that, if a defendant fails to comply with a plea agreement, the state is not bound by that agreement.” (53 P.3d at 554)

“Under the totality of the circumstances, we hold Mr. Schade entered his plea knowingly and voluntarily.” (53 P.3d at 556)

“The time between the guilty plea and sentencing was extended as a direct result of Mr. Schade's actions.” (53 P.3d at 558)

FACTUAL BACKGROUND

Schade pleaded guilty to two counts of immoral or indecent acts with a minor after the State agreed to dismiss three other charges and recommend probation. He violated a bond condition prohibiting contact with the victims, and the parties later entered a second agreement conditioning the State's probation recommendation on his acceptance into an intensive-supervision or comparable program. Schade was not accepted into any such program despite several continuances, and the district court sentenced him to consecutive terms of three to five years in prison.

PROCEDURAL HISTORY

Schade initially entered guilty pleas under an agreement that the State would recommend probation if he obtained a sex-offender evaluation. After he violated a no-contact bond condition, the State sought revocation of his bond and the parties entered a second agreement conditioning the probation recommendation on acceptance into an intensive-supervision or comparable community-placement program. After Schade was unsuccessful in obtaining placement, the State did not recommend probation, and the district court imposed consecutive prison sentences. The Wyoming Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- *Clingman v. State*, 2001 WY 46, ¶ 20, 23 P.3d 27, 31 (Wyo. 2001)
- *United States v. Peterson*, 225 F.3d 1167, 1170-71 (10th Cir. 2000)
- *Browning v. State*, 2001 WY 93, ¶ 32, 32 P.3d 1061, ¶ 32 (Wyo. 2001)
- *Smallwood v. State*, 748 P.2d 1141, 1143 (Wyo. 1988)
- *Reyna v. State*, 2001 WY 105, ¶ 9, 33 P.3d 1129, ¶ 9 (Wyo. 2001)
- *Brady v. United States*, 397 U.S. 742, 755 (1970)
- *Shelton v. United States*, 246 F.2d 571, 572 n.2 (5th Cir. 1957), rev'd on other grounds, 356 U.S. 26 (1958)
- *State v. McDermott*, 962 P.2d 136, 139 (Wyo. 1998)
- *Stowe v. State*, 10 P.3d 551, 552 n.1 (Wyo. 2000)
- *Reagan v. State*, 14 P.3d 925, 927-28 (Wyo. 2000)
- *Byerly v. Madsen*, 41 Wash. App. 495, 704 P.2d 1236 (1985)
- *Vaughn v. State*, 962 P.2d 149, 151 (Wyo. 1998)
- *Daugherty v. State*, 2002 WY 52, ¶¶ 29, 44, 44 P.3d 28, ¶¶ 29, 44 (Wyo. 2002)
- *Yates v. State*, 792 P.2d 187, 192 (Wyo. 1990)
- *Detheridge v. State*, 963 P.2d 233, 235 (Wyo. 1998)
- *Johnson v. State*, 790 P.2d 231, 232 (Wyo. 1990)