

SUPREME COURT OF THE STATE OF MONTANA

Beach v. State

2009 MT 398 (2009) · No. DA 08-0244 · Decided November 24, 2009

SUMMARY

The Montana Supreme Court reviewed Barry Allen Beach’s appeal from the denial of his petition for post-conviction relief. The Court held that the petition was not procedurally barred under Montana’s successive-petition requirements and that the district court had not adequately analyzed the alleged newly discovered evidence or applicable miscarriage-of-justice standard. The Court remanded for an evidentiary hearing applying a modified newly discovered evidence test and the Schlup actual-innocence standard.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Brian Morris; W. William Leaphart; Patricia O. Cotter; John Warner; Jim Rice
JURISDICTION	Montana
DECIDED	November 24, 2009
DOCKET	DA 08-0244
DISPOSITION	remanded
PROCEDURAL POSTURE	Barry Allen Beach appealed the Fifteenth Judicial District Court's denial of his petition for post-conviction relief, which alleged newly discovered evidence and actual innocence. The Montana Supreme Court remanded for an evidentiary hearing.
STANDARD OF REVIEW	The court reviews factual findings for clear error, conclusions of law for correctness, and discretionary post-conviction rulings, including whether to hold an evidentiary hearing, for abuse of discretion.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	Barry Allen Beach v. State of Montana

TOPICS

- state post-conviction relief
- successive petitions
- actual innocence
- evidence
- appellate procedure

PRACTICE AREAS

post-conviction relief

criminal procedure

appellate procedure

evidence

QUESTIONS PRESENTED

1. Whether Beach's post-conviction petition was procedurally barred under Montana's post-conviction petition requirements and successive-petition statute.
2. Whether Beach's petition was barred by Montana's pre-1997 five-year limitations period or could proceed under the fundamental-miscarriage-of-justice exception based on alleged newly discovered evidence.
3. Whether the District Court abused its discretion by denying the petition without holding an evidentiary hearing.

HOLDINGS

1. Beach's petition was not procedurally barred under §§ 46-21-104 or 46-21-105, MCA, because the petition alleged newly discovered evidence that Beach claimed had only recently become available and the District Court's order did not establish a lack of diligence.
2. Although Beach's petition was filed well beyond the pre-1997 five-year limitations period, the District Court had to evaluate whether the alleged newly discovered evidence satisfied the fundamental-miscarriage-of-justice exception rather than summarily deeming the petition time barred.
3. The District Court must evaluate Beach's alleged newly discovered evidence under a modified five-factor Clark test, incorporating the Redcrow and Schlup actual-innocence standards, before determining whether the evidence establishes a fundamental miscarriage of justice.
4. The District Court abused its discretion by denying Beach's post-conviction petition without an evidentiary hearing.

KEY QUOTATIONS

“Schlup defines “actually innocent” as not merely a showing that a reasonable doubt exists in light of the new evidence, but rather that “no reasonable juror would have found the defendant guilty.” (¶ 29)

“The trial court must leave determination of whether actually to believe the newly discovered evidence to the fact-finder on retrial.” (¶ 41)

“The District Court nonetheless abused its discretion by denying Beach’s petition without holding an evidentiary hearing in response to the State’s concession and the factors discussed in this opinion.” (¶ 50)

FACTUAL BACKGROUND

A jury convicted Beach of deliberate homicide in 1984, and he received a 100-year sentence without parole. His first state post-conviction petition, filed in 1995, was denied as procedurally and time barred. In 2008, after pursuing DNA testing and clemency, Beach filed another post-conviction petition based in part on alleged newly discovered evidence. The District Court denied the petition without a hearing and concluded that the evidence did not establish actual innocence sufficient to invoke the fundamental-miscarriage-of-justice exception.

PROCEDURAL HISTORY

Beach was convicted of deliberate homicide in 1984, and the Montana Supreme Court affirmed his conviction and sentence. His prior state post-conviction petition was denied as procedurally and time barred, and his federal habeas petition was denied with affirmance by the Ninth Circuit. After unsuccessful efforts to obtain DNA testing and executive clemency, Beach filed the present post-conviction petition in 2008. The District Court denied it as procedurally and time barred without an evidentiary hearing, and the Montana Supreme Court remanded.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The District Court must conduct an evidentiary hearing on Beach's alleged newly discovered evidence, apply the modified five-prong Clark test together with the Redcrow and Schlup actual-innocence standards, determine whether the evidence is genuinely new and whether a jury could find Beach actually innocent or no reasonable juror would have convicted him beyond a reasonable doubt, and issue a written decision explaining its legal conclusions and factual findings.

CASES CITED

- State v. Beach, 217 Mont. 132, 705 P.2d 94 (1985)
- Beach v. Day, 275 Mont. 370, 375, 913 P.2d 622, 625 (1996)
- Beach v. Mahoney, CV 92-92-BLG-JDS (D. Mont. Mar. 31, 1998)
- Beach v. McCormick, 191 F.3d 459 (9th Cir. 1999)
- Heath v. State, 2009 MT 7, ¶ 13, 348 Mont. 361, 202 P.3d 118
- State v. Wright, 2001 MT 282, ¶ 31, 307 Mont. 349, 42 P.3d 753
- Williams v. State, 2002 MT 189, ¶ 19, 311 Mont. 108, 53 P.3d 864
- State v. Root, 2003 MT 28, ¶ 16, 314 Mont. 186, 64 P.3d 1035
- Sanchez v. State, 2004 MT 9, ¶ 10, 319 Mont. 226, 86 P.3d 1
- Hawkins v. Mahoney, 1999 MT 82, ¶ 10, 294 Mont. 124, 979 P.2d 697
- State v. Charlo, 2000 MT 192, ¶ 11, 300 Mont. 435, 4 P.3d 1201
- State v. Whitehorn, 2002 MT 54, ¶ 44, 309 Mont. 63, 50 P.3d 121
- State v. Redcrow, 1999 MT 95, ¶¶ 29, 31, 33, 37, 294 Mont. 252, 980 P.2d 622
- State v. Pope, 2003 MT 330, ¶¶ 34, 38, 44, 46, 53, 56, 68-70, 318 Mont. 383, 80 P.3d 1232
- Schlup v. Delo, 513 U.S. 298, 316, 322, 324-29, 115 S. Ct. 851, 861, 864, 865, 867-68 (1995)
- Sawyer v. Whitley, 505 U.S. 333, 336, 339, 344, 112 S. Ct. 2514, 2517-19, 2521 (1992)
- State v. Clark, 2005 MT 330, ¶¶ 34, 36, 330 Mont. 8, 125 P.3d 1099
- Crosby v. State, 2006 MT 155, ¶¶ 6, 19, 21, 332 Mont. 460, 139 P.3d 832
- State v. Abe, 2001 MT 260, ¶ 10, 307 Mont. 233, 37 P.3d 77

- *Herrera v. Collins*, 506 U.S. 390, 426, 113 S. Ct. 853, 874 (1993)

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