SUPREME COURT OF THE STATE OF MONTANA

Lovaas v. State

2012 MT 205N (2012) · No. DA 12-0113 · Decided September 11, 2012

SUMMARY

The Montana Supreme Court affirmed the dismissal of Patty Lovaas's petition for judicial review concerning the Department of Revenue's valuation of Elkhorn Hot Springs property for taxation. The Court held that Lovaas failed to present cogent arguments, supporting authority, or evidence demonstrating error in the District Court's dismissal. The memorandum opinion is noncitable and does not serve as precedent under the Montana Supreme Court's Internal Operating Rules.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Chief Justice Mike McGrath; Mike McGrath; James C. Nelson; Patricia Cotter; Brian Morris; Beth Baker
JURISDICTION	Montana
DECIDED	September 11, 2012
DOCKET	DA 12-0113
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the dismissal with prejudice of a petition for judicial review of a State Tax Appeal Board valuation decision.
STANDARD OF REVIEW	A district court's decision is presumed correct, and the appellant bears the burden of demonstrating error.
PRECEDENTIAL VALUE	Noncitable memorandum opinion; not precedent under Montana Supreme Court Internal Operating Rules § I, ¶ 3(d).
PARTIES	Patty Lovaas v. State of Montana, acting by and through the Department of Revenue

TOPICS

property tax · judicial review of agency action · appellate procedure · administrative law · standard of review

PRACTICE AREAS

property tax · administrative law · appellate procedure · judicial review of agency action

QUESTIONS PRESENTED

1. Whether the district court properly dismissed Lovaas's petition for judicial review of the State Tax Appeal Board's property valuation decision.
2. Whether Lovaas demonstrated reversible error through a recognizable legal argument supported by authority.

HOLDINGS

1. The district court properly dismissed Lovaas's petition because she failed to present a cogent argument, supporting authority, or evidence demonstrating that the Department's valuation or the district court's ruling was erroneous.
2. The case was properly decided by memorandum opinion under Section I, Paragraph 3(d) of the Montana Supreme Court Internal Operating Rules and does not serve as precedent.

KEY QUOTATIONS

> *"This Court has no obligation to research a party's position or to develop a legal analysis to support it if the party fails to do so."* (¶ 6)

> *"Consequently, Lovaas has failed to demonstrate in any way that the District Court improperly dismissed her petition for judicial review and is not entitled to any relief."* (¶ 6)

FACTUAL BACKGROUND

The Montana Department of Revenue determined the market value for taxation of property known as Elkhorn Hot Springs in Beaverhead County. Lovaas challenged the valuation before the county and State Tax Appeal Boards, but both boards upheld the Department's determination after finding insufficient relevant or probative evidence of error. In the district court, Lovaas attempted to introduce additional materials outside the prior administrative record, but the court found the materials lacking foundation, hearsay, or irrelevant and ultimately dismissed her petition for failing to present a coherent legal or evidentiary basis for relief.

PROCEDURAL HISTORY

The Beaverhead County Tax Appeal Board upheld the Department of Revenue's property valuation. The State Tax Appeal Board likewise upheld the valuation after finding that Lovaas had not presented relevant or probative evidence of error. Lovaas sought judicial review in the Fifth Judicial District Court, which denied leave to present additional evidence, gave her an opportunity to file an intelligible amended petition, and ultimately dismissed the petition with prejudice. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Gomez, 2007 MT 111, ¶ 33, 337 Mont. 219, 158 P.3d 442

- State v. Hicks, 2006 MT 71, ¶ 22, 331 Mont. 471, 133 P.3d 206

OPINION

PER CURIAM.

September 11 2012 DA 12-0113 IN THE SUPREME COURT OF THE STATE OF MONTANA 2012 MT 205N PATTY LOVAAS, Plaintiff and Appellant, v. STATE OF MONTANA, acting by and through the DEPARTMENT OF REVENUE, Defendant and Appellee. APPEAL FROM: District Court of the Fifth Judicial District, In and For the County of Beaverhead, Cause No. DV 11-13506 Honorable Loren Tucker, Presiding Judge COUNSEL OF RECORD: For Appellant: Patty Lovaas (self-represented); Missoula, Montana For Appellee: Courtney Jenkins, Senior Tax Counsel, Derek R. Bell, Special Assistant Attorneys General; Montana Department of Revenue, Helena, Montana Submitted on Briefs: August 22, 2012 Decided: September 11, 2012 Filed: ____ Clerk Chief Justice Mike McGrath delivered the Opinion of the Court. ¶1 Pursuant to Section I, Paragraph 3(d), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent.

Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports. ¶2 This case arose from the Department of Revenue's value determination for taxation of property located in Beaverhead County, known as Elkhorn Hot Springs.

The District Court dismissed Patty Lovaas' petition for judicial review of the decision of the State Tax Appeal Board and Lovaas appeals. We affirm. ¶3 Lovaas challenged the Department's market value determination before the Beaverhead County Tax Appeal Board, which held a hearing in June 2010, and upheld the Department. Lovaas appealed to the State Tax Appeal Board (STAB), which held a hearing in October 2010.

The STAB concluded that Lovaas had failed to produce any relevant or probative evidence that the Department's value determination was in error. The STAB upheld the Department's valuation. ¶4 Lovaas then sought judicial review in the District Court in January 2011. She sought leave to present additional evidence but the District Court denied the motion because judicial review was limited to the evidence in the prior proceedings, and because the new evidence lacked foundation, contained hearsay and was largely irrelevant.

Lovaas then filed her brief on judicial review, attaching documents not in the record. The 2 District Court entered a conditional order dismissing the petition for judicial review, but gave Lovaas another chance to present "something intelligible which the Court can review." ¶5 Lovaas filed an amended petition for judicial review, again including documents not in the record.

The District Court dismissed the petition with prejudice, finding that Lovaas had again failed to “supply any logic or authority to support her conclusions” that the Department’s valuations were wrong. ¶6 Lovaas appeals.

As was the case with her proceedings before the STAB and the District Court, Lovaas fails to present any recognizable arguments or authority to support her appeal. A district court’s decision is presumed to be correct, and the appellant has the burden to demonstrate that an error was made. State v. Gomez, 2007 MT 111, ¶ 33, 337 Mont. 219, 158 P.3d 442. This Court has no obligation to research a party’s position or to develop a legal analysis to support it if the party fails to do so.

State v. Hicks, 2006 MT 71, ¶ 22, 331 Mont. 471, 133 P.3d 206. In this case Lovaas fails to meet her burden to show that the District Court made an error. The issue discussions in her brief are terse and vague and contain no cogent argument or citation to authority. Consequently, Lovaas has failed to demonstrate in any way that the District Court improperly dismissed her petition for judicial review and is not entitled to any relief. ¶7 We have determined to decide this case pursuant to Section 1, Paragraph 3(d), of our Internal Operating Rules, which provides for noncitable memorandum opinions.

3 ¶8 It is manifest on the face of the briefs and the record that the District Court properly dismissed the petition for judicial review. ¶9 Affirmed. /S/ MIKE McGRATH We concur: /S/ JAMES C. NELSON /S/ PATRICIA COTTER /S/ BRIAN MORRIS /S/ BETH BAKER 4