

SUPREME COURT OF MONTANA

In the Matter of Z.M., a Youth

160 P.3d 490 (Mont. 2007) · No. DA 06-0660 · Decided May 30, 2007

SUMMARY

The Montana Supreme Court reviews a youth court order denying Z.M.'s motion to suppress evidence arising from his detention, the seizure of alcohol and money, his burglary statements, and the taking of his shoes. The court addresses whether Z.M. reserved the right to appeal after pleading guilty and examines the legality of the detention, search, and custodial interrogation under the Fourth and Fifth Amendments, the Montana Constitution, and the Youth Court Act.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	W. William Leaphart; Karla M. Gray, Chief Justice; James C. Nelson, Justice; John Warner, Justice; Brian Morris, Justice
JURISDICTION	Montana
DECIDED	May 30, 2007
DOCKET	DA 06-0660
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Z.M. appealed from the Twentieth Judicial District Court's denial of his motion to suppress after pleading guilty to one count of felony burglary. The Montana Supreme Court affirmed suppression rulings concerning alcohol and money, reversed the denial of suppression as to both confessions, and remanded.
STANDARD OF REVIEW	The court reviewed factual findings for clear error and the application of those findings to the law de novo. A finding is clearly erroneous if unsupported by substantial evidence, based on a misapprehension of the effect of the evidence, or if the reviewing court is left with a definite and firm conviction that a mistake was made.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	Z.M., a youth v. State of Montana

TOPICS

suppression of evidence

fourth amendment

miranda rights

criminal procedure

appellate procedure

PRACTICE AREAS

juvenile law

criminal procedure

constitutional law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether Z.M. properly reserved the right to appeal the denial of his motion to suppress after entering a guilty plea.
2. Whether the officer lawfully took Z.M. into custody and searched him, making the alcohol and money admissible.
3. Whether Z.M.'s first confession, obtained before Miranda warnings and before his parents arrived, was admissible.
4. Whether Z.M.'s second confession, allegedly obtained after Miranda warnings and parental consent, was admissible despite the absence of a preserved recording or written waiver.
5. Whether the denial of suppression concerning Z.M.'s shoes remained reviewable when Z.M. did not pursue that argument on appeal.

HOLDINGS

1. Z.M. properly reserved the right to appeal the denial of his suppression motion, so the guilty plea did not bar appellate review of that issue.
2. The officer had probable cause and circumstances requiring immediate arrest of Z.M. for the non-jailable minor-in-possession offense, and the resulting search incident to the lawful taking into custody was constitutional.
3. The first confession was inadmissible because it resulted from a custodial interrogation conducted before Miranda warnings and before Z.M.'s parents arrived and could consult with him about waiver.
4. The second confession was inadmissible because the State failed to establish that Miranda warnings were given and that Z.M. intelligently understood and waived his rights.
5. The denial of suppression concerning Z.M.'s shoes remained the law of the case because Z.M. did not pursue the fruit-of-the-poisonous-tree argument on appeal.

KEY QUOTATIONS

“Thus, these circumstances warranted immediate arrest. Thus, it was reasonable for Bache to take Z.M. into custody for the youth's safety.” (498)

“Pursuant to § 41-5-331, MCA, Bache and Chief Ceely should not have started questioning Z.M. until they gave him his Miranda warnings, and, in light of Z.M.'s age, until his parents arrived and he had a chance to consult with them on whether or not to waive his rights.” (500-501)

“This failure must be viewed with extreme disfavor.” (501)

FACTUAL BACKGROUND

A fourteen-year-old youth, Z.M., was reported missing from home and absent from school. A reserve police officer stopped Z.M. and another youth, smelled alcohol, took them to the police station, and searched or obtained items from their pockets. At the station, officers questioned Z.M. about several burglaries; he made one confession before his parents arrived and another after the officers purportedly gave Miranda warnings. The officer did not preserve the recording of the alleged warnings and waiver and did not obtain a written waiver.

PROCEDURAL HISTORY

The Youth Court denied Z.M.'s motion to suppress evidence, statements, and evidence derived from the taking of his shoes. Z.M. later pleaded guilty to one felony burglary count, while the remaining charges were dismissed; he was adjudicated delinquent and placed on probation. The Supreme Court held that Z.M. properly reserved the right to appeal the suppression ruling, affirmed in part, reversed in part, and remanded with instructions permitting withdrawal of the plea.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Youth Court must suppress both confessions and allow Z.M. to withdraw his guilty plea pursuant to § 46-12-204(3), MCA. Proceedings must otherwise be consistent with the opinion.

CASES CITED

- In re R.L.H., 2005 MT 177, ¶ 16, 327 Mont. 520, 116 P.3d 791
- State v. Bauer, 2001 MT 248, ¶¶ 12, 25, 33, 307 Mont. 105, 36 P.3d 892
- State v. Samples, 2005 MT 210, ¶ 11, 328 Mont. 242, 119 P.3d 1191
- State v. Niles, 2002 MT 282, ¶ 10, 312 Mont. 453, 59 P.3d 1129
- State v. Van Dort, 2003 MT 104, ¶ 19, 315 Mont. 303, 68 P.3d 728
- State v. Thornton, 218 Mont. 317, 322-23, 708 P.2d 273, 277-78 (1985)
- State v. Galpin, 2003 MT 324, ¶ 54, 318 Mont. 318, 80 P.3d 1207
- State v. Daniels, 2005 MT 110, ¶ 13, 327 Mont. 78, 111 P.3d 675
- State v. Grey, 274 Mont. 206, 209-10, 213-14, 907 P.2d 951 (1995)
- State v. Cassell, 280 Mont. 397, 403, 932 P.2d 478, 481 (1996)
- State v. Lawrence, 285 Mont. 140, 156, 948 P.2d 186, 195 (1997)
- State v. McKee, 2006 MT 5, ¶¶ 22, 28, 31, 330 Mont. 249, 127 P.3d 445
- State v. Olson, 2003 MT 61, ¶¶ 14, 18, 314 Mont. 402, 66 P.3d 297
- Miranda v. Arizona, 384 U.S. 436, 444, 475, 86 S. Ct. 1602, 1612, 1628, 16 L. Ed. 2d 694 (1966)

