

SUPREME COURT OF MONTANA

State v. Thomas, 233 Mont. 451

760 P.2d 96 (1988) · No. No. 88-152 · Decided August 25, 1988

SUMMARY

The Supreme Court of Montana held that state courts have jurisdiction over a non-Indian charged with violating Montana's accident-reporting statute on an Indian reservation when the accident involved Indian property. The court characterized the failure to report as a victimless offense, concluding that the state's interest in traffic safety outweighed federal and tribal interests in exclusive jurisdiction.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	McDONOUGH, Justice; Turnage, C.J.; Harrison, J.; Gulbrandson, J.; Hunt, J.
JURISDICTION	Montana
DECIDED	August 25, 1988
DOCKET	No. 88-152
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State appealed the Sixteenth Judicial District Court's ruling that Montana state courts lacked jurisdiction over a non-Indian charged with violating Montana's accident-reporting statute on an Indian reservation.
STANDARD OF REVIEW	De novo review of the lower court's jurisdictional determination and construction of applicable constitutional, statutory, and federal Indian-jurisdiction principles.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; binding precedent in Montana subject to subsequent treatment.
PARTIES	State of Montana v. James Thomas

TOPICS

- tribal jurisdiction
- indian affairs
- federalism
- criminal procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Montana state courts have jurisdiction over a non-Indian charged with violating § 61-7-108, MCA, on an Indian reservation when the accident involved property owned by Indians.
2. Whether the charged failure-to-report offense is an offense against Indian property for purposes of federal and state jurisdiction in Indian country.
3. Whether the Supreme Court should review Thomas's speedy-trial claim raised for the first time on appeal without a cross-appeal.

HOLDINGS

1. Montana state courts have jurisdiction over a non-Indian charged with violating § 61-7-108, MCA, on an Indian reservation under the circumstances presented.
2. A violation of § 61-7-108, MCA, is not an offense against Indian property merely because the underlying accident involved property owned by an Indian; the offense is the failure to discharge a reporting duty and is properly treated as a victimless offense for jurisdictional analysis.
3. The court would not review Thomas's speedy-trial claim because he failed to raise it in the lower court and did not cross-appeal.

KEY QUOTATIONS

“We hold here that the federal and tribal interests in providing a federal forum fail to outweigh the State’s strong interest in traffic safety.” (233 Mont. 452)

“The allegedly criminal act is the failure to discharge a reporting duty, not infliction of damage upon property belonging to an Indian.” (233 Mont. 452)

FACTUAL BACKGROUND

Thomas, who was non-Indian, allegedly struck a calf owned by the Parkers, an Indian family ranching on the Northern Cheyenne Reservation. The State alleged that Thomas violated § 61-7-108, MCA, by leaving the accident scene without immediately notifying law enforcement. The charged offense was the failure to report the accident, not the infliction of damage to Indian property.

PROCEDURAL HISTORY

James Thomas was charged with violating § 61-7-108, MCA, for allegedly leaving the scene after striking a calf on the Northern Cheyenne Reservation without reporting the accident. The district court dismissed or otherwise ruled against state jurisdiction, reasoning that the reservation setting and Indian ownership of the property deprived state courts of jurisdiction. The Montana Supreme Court reversed and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for further proceedings consistent with the holding that Montana state courts have jurisdiction over the charged offense.

CASES CITED

- Oliphant v. Suquamish Indian Tribe, 435 U.S. 191, 98 S. Ct. 1011, 55 L. Ed. 2d 209 (1978)
- United States v. Wheeler, 435 U.S. 313, 98 S. Ct. 1079, 55 L. Ed. 2d 303 (1978)
- Draper v. United States, 164 U.S. 240, 17 S. Ct. 107, 41 L. Ed. 419 (1896)
- White Mountain Apache Tribe v. Bracker, 448 U.S. 136, 144-45, 100 S. Ct. 2578, 2584, 65 L. Ed. 2d 665, 673 (1980)
- State v. Burrola, 137 Ariz. 181, 669 P.2d 614, 615 (Ariz. Ct. App. 1983)
- State v. Warner, 71 N.M. 418, 379 P.2d 66 (1963)
- State v. Herber, 123 Ariz. 214, 598 P.2d 1033 (Ariz. Ct. App. 1979)
- United States v. McBratney