

SUPREME COURT OF MINNESOTA

Bilbro v. State

920 N.W.2d 836 (Minn. 2018) · Decided December 11, 2018

SUMMARY

The Minnesota Supreme Court reversed the court of appeals and held that Bilbro's consecutive sentences for attempted second-degree intentional murder and second-degree criminal sexual conduct were not authorized by law. The court remanded for imposition of concurrent sentences and granted Bilbro's motion to strike the portion of the State's brief addressing treatment of his sentencing motion as a postconviction petition.

CASE DETAILS

COURT	Supreme Court of Minnesota
WRITING FOR THE COURT	Per curiam
JURISDICTION	Minnesota
DECIDED	December 11, 2018
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Minnesota Supreme Court granted review of a court of appeals decision concerning the treatment of Bilbro's sentence-correction motion and the legality of consecutive sentences.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Minnesota
PARTIES	Melvin Bilbro v. State

TOPICS

- sentencing
- criminal procedure
- post-conviction relief
- appellate procedure

PRACTICE AREAS

- Criminal procedure
- Sentencing
- Appellate procedure
- Post-conviction relief

QUESTIONS PRESENTED

1. Whether the district court lawfully imposed consecutive sentences for Bilbro's two offenses under the Minnesota Sentencing Guidelines.

2. Whether the State waived its argument that Bilbro's Rule 27.03 motion was properly treated as a postconviction petition.

HOLDINGS

1. The consecutive sentences were not authorized by law, and Bilbro must receive concurrent sentences.
2. The State's response brief was stricken to the extent it argued that the district court correctly treated Bilbro's motion as a postconviction petition.

FACTUAL BACKGROUND

Bilbro pleaded guilty to attempted second-degree intentional murder and second-degree criminal sexual conduct pursuant to an agreement under which the State dismissed two counts and waived its opportunity to seek an enhanced sentence. At sentencing, the State sought consecutive sentences, while Bilbro requested concurrent sentences. The district court imposed presumptive guidelines sentences of 163 months and 36 months consecutively, along with a 10-year conditional-release term.

PROCEDURAL HISTORY

Bilbro pleaded guilty in 2008 to attempted second-degree intentional murder and second-degree criminal sexual conduct. The district court imposed presumptive guidelines sentences consecutively and later denied Bilbro's Rule 27.03 motion as an untimely postconviction petition. The court of appeals held that the motion should not have been treated as a postconviction petition, found the conditional-release term on the attempted-murder conviction improper, and upheld the consecutive sentences. The Minnesota Supreme Court granted review, granted Bilbro's motion to strike part of the State's response brief, reversed the ruling that the consecutive sentences were authorized, and remanded for concurrent sentences.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case is remanded to the district court for imposition of concurrent sentences. The Minnesota Supreme Court retained jurisdiction solely for the subsequent filing of the opinion and directed that judgment be entered immediately.

CASES CITED

- Bilbro v. State, No. A17-1566, 2018 WL 3340453 (Minn. App. July 9, 2018)

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