

SUPREME COURT OF MONTANA

Michael Jeffrey Anderson v. State of Montana

2012 MT 153N (Mont. 2012) · No. DA 12-0109 · Decided July 18, 2012

SUMMARY

The Montana Supreme Court affirmed the dismissal of Michael Jeffrey Anderson’s petition for post-conviction relief. The court held that the petition was untimely and that the documents initially filed failed to comply with statutory requirements for a verified petition. The opinion was issued as a noncitable memorandum opinion.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice Jim Rice; Jim Rice; James C. Nelson; Patricia Cotter; Beth Baker; Brian Morris
JURISDICTION	Montana
DECIDED	July 18, 2012
DOCKET	DA 12-0109
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the District Court's denial and dismissal of a petition for postconviction relief.
STANDARD OF REVIEW	The court reviewed the legal issues under settled Montana law and determined whether the District Court correctly interpreted and applied the statutory postconviction-filing requirements.
PRECEDENTIAL VALUE	Nonprecedential; noncitable memorandum opinion
PARTIES	Michael Jeffrey Anderson v. State of Montana

TOPICS

- state post-conviction relief
- post-conviction relief
- appellate procedure
- criminal procedure
- preservation of error

PRACTICE AREAS

- state post-conviction relief
- criminal procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether Anderson's postconviction petition was timely under Montana law.
2. Whether Anderson's June 14, 2011 postconviction filings complied with the statutory requirements for a verified petition.
3. Whether the District Court properly dismissed the postconviction petition.

HOLDINGS

1. The petition was untimely because Anderson's case became final on May 3, 2010, and he did not file a proper postconviction petition by the May 3, 2011 deadline.
2. The June 14 filings were procedurally defective because the petition and affidavit were photocopies, were not dated and signed before a notary, and did not provide the required original sworn verification.

KEY QUOTATIONS

“Anderson’s petition was barred as untimely and properly dismissed.” (§6)

FACTUAL BACKGROUND

Anderson's criminal case became final on May 3, 2010, giving him until May 3, 2011, to file a timely petition for postconviction relief. He claimed that a friend delivered documents to the District Court Clerk in April 2011, but the documents were returned because he had neither submitted the filing fee nor obtained a fee waiver. His June 14, 2011 filing was untimely and also lacked the required original, sworn, notarized verification; he did not file a proper petition until September 6, 2011.

PROCEDURAL HISTORY

Anderson was convicted after a jury trial of felony assault with a weapon, misdemeanor partner or family member assault, and misdemeanor assault. The Montana Supreme Court previously affirmed his conviction while remanding for removal of an alcohol condition from his sentence. Anderson filed postconviction materials in June 2011, but the District Court dismissed them as improperly verified and untimely; the court dismissed his later pleadings as well. He appealed the December 2011 dismissal, and the Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Anderson, 2010 MT 17N, ¶ 7