

SUPREME COURT OF MONTANA

Branden Miller and John Albert LeBrum v. Eighteenth Judicial District Court, 2007 MT 149

162 P.3d 121, 337 Mont. 488 (2007) · No. OP 07-0134 · Decided June 19, 2007

SUMMARY

The Montana Supreme Court granted a petition for writ of supervisory control and reversed the district court's denial of motions seeking to preclude the State from pursuing or imposing the death penalty. The court held that Standard I.1.a. of Montana's Standards for Competency of Counsel in Death Penalty Cases required the prosecutor to file notice of intent to seek the death penalty within 60 days after arraignment, and that the rule did not contain a prejudice-based exception. The case was remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Per curiam; Karla M. Gray, Chief Justice; James C. Nelson, Justice; W. William Leaphart, Justice; Patricia Cotter, Justice; Brian Morris, Justice
JURISDICTION	Montana
DECIDED	June 19, 2007
DOCKET	OP 07-0134
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petition for writ of supervisory control challenging the district court's denial of motions to preclude the State from seeking or imposing the death penalty based on the prosecutor's untimely notice of intent.
STANDARD OF REVIEW	De novo review of the district court's interpretation and construction of the Standards for Competency of Counsel for Indigent Persons in Death Penalty Cases.
PRECEDENTIAL VALUE	Published, precedential Montana Supreme Court opinion; dissent joined by two justices.
PARTIES	Branden Miller, John Albert LeBrum v. Eighteenth Judicial District Court, Honorable Mike Salvagni, District Judge

TOPICS

appellate procedure criminal procedure sentencing statutory interpretation standard of review

PRACTICE AREAS

criminal procedure capital punishment appellate procedure statutory interpretation constitutional law

QUESTIONS PRESENTED

1. Whether the petition presented issues appropriate for resolution through a writ of supervisory control.
2. Whether Standard I.1.a. contains an exception permitting the prosecutor to file the death-penalty notice after the 60-day deadline based on lack of prejudice or the defendants' prior knowledge.
3. What consequence follows when the prosecutor fails to comply with Standard I.1.a.'s 60-day notice deadline.
4. Whether the defendants timely raised the violation so as to obtain relief.

HOLDINGS

1. The petition was appropriate for resolution through a writ of supervisory control because the district court was proceeding under a mistake of law, the ruling caused a gross injustice by subjecting the defendants to capital prosecutions they were entitled to avoid, and an appeal after trial would not provide an adequate remedy.
2. Standard I.1.a.'s requirement that the prosecutor file the notice within 60 days after arraignment is mandatory and contains no exception based on lack of prejudice, the defendants' knowledge that death was a potential punishment, or the availability of adequate defense preparation.
3. Standard I.1.a. is a categorical, rigid, nonjurisdictional claim-processing rule. A prosecutor's failure to meet the deadline does not eliminate the district court's subject-matter jurisdiction, but it assures relief to a defendant who timely raises the violation; the rule may be forfeited if not timely asserted.
4. When the prosecutor fails to file the notice required by Standard I.1.a. within 60 days after arraignment and the defendant timely moves to enforce the procedural safeguard, the motion to preclude the State from seeking the death penalty and to preclude imposition of the death penalty as a sentence must be granted.

KEY QUOTATIONS

“Most importantly, nothing in the plain language of the rule suggests that lack of prejudice to the defendant or the defendant's knowledge that the case is a potential death penalty case can supplant the express requirement that the notice be filed within the 60-day time frame.” (129)

“Thus, where a prosecutor has failed to file notice, stating whether he or she intends to seek the death penalty upon a conviction in the case, in accordance with Standard I.1.a. and the defendant has timely raised this issue in a motion to preclude the State from seeking the death penalty and to preclude imposition of the death penalty as a sentence, that motion must be granted.” (131)

FACTUAL BACKGROUND

Miller and LeBrum were charged with deliberate homicide, aggravated kidnapping, and tampering with or fabricating physical evidence, and the charging informations alleged aggravating circumstances making death a potential punishment. They were arraigned on July 18, 2006. Under Standard I.1.a. of Montana's Standards for Competency of Counsel for Indigent Persons in Death Penalty Cases, the prosecutor was required to file within 60 days a notice stating whether the State intended to seek the death penalty, but filed the notice on November 27, 2006, 72 days late. The defendants promptly moved to preclude the State from seeking or imposing the death penalty, but the district court denied the motions based on lack of prejudice.

PROCEDURAL HISTORY

Miller and LeBrum were defendants in separate felony prosecutions in the Eighteenth Judicial District Court, Gallatin County. They were arraigned on July 18, 2006, but the prosecutor did not file the required notice of intent to seek the death penalty within 60 days; the notice was filed 72 days late. The district court denied the defendants' motions to preclude the death penalty, after finding no prejudice from the late filing. The Montana Supreme Court granted supervisory control, reversed, and remanded with instructions to grant the motions.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court was instructed to grant Miller's and LeBrum's motions to preclude the State from seeking the death penalty and to preclude imposition of the death penalty as a sentence, and to conduct further proceedings consistent with the opinion.

CASES CITED

- Evans v. Montana Eleventh Judicial District Court, 2000 MT 38, 298 Mont. 279, 995 P.2d 455
- Park v. Montana Sixth Judicial District Court, 1998 MT 164, 289 Mont. 367, 961 P.2d 1267
- Plumb v. Montana Fourth Judicial District Court, 279 Mont. 363, 927 P.2d 1011 (1996)
- Inter-Fluve v. Montana Eighteenth Judicial District Court, 2005 MT 103, 327 Mont. 14, 112 P.3d 258
- State ex rel. Dusek v. Montana Eighth Judicial District Court, 2003 MT 303, 318 Mont. 166, 79 P.3d 292
- State ex rel. Booth v. Montana Twenty-First Judicial District Court, 1998 MT 344, 292 Mont. 371, 972 P.2d 325
- Associated Press v. Montana Senate Republican Caucus, 286 Mont. 172, 951 P.2d 65 (1997)
- Faulconbridge v. State, 2006 MT 198, 333 Mont. 186, 142 P.3d 777
- Madrid v. Zenchiku Land and Livestock, 2002 MT 172, 310 Mont. 491, 51 P.3d 1137
- Woodson v. North Carolina, 428 U.S. 280 (1976)
- Lankford v. Idaho, 500 U.S. 110 (1991)
- Ring v. Arizona, 536 U.S. 584 (2002)

- State v. Lee, 185 Ariz. 549, 917 P.2d 692 (1996)
- State v. Jackson, 186 Ariz. 20, 918 P.2d 1038 (1996)
- State v. Shults, 2006 MT 100, 332 Mont. 130, 136 P.3d 507
- United States v. Allen, 406 F.3d 940 (8th Cir. 2005)
- State v. Second Judicial District Court, 116 Nev. 953, 11 P.3d 1209 (2000)
- State v. Luvene, 127 Wash. 2d 690, 903 P.2d 960 (1995)
- State v. Smallwood, 141 N.M. 178, 152 P.3d 821 (2007)
- State v. McQuiston, 277 Mont. 397, 922 P.2d 519 (1996)
- State v. Sol, 282 Mont. 69, 936 P.2d 307 (1997)
- State v. Kroll, 2004 MT 203, 322 Mont. 294, 95 P.3d 717
- State ex rel. Palmer v. Hart, 201 Mont. 526, 655 P.2d 965 (1982)
- Rich v. State Farm Mutual Automobile Insurance Co., 2003 MT 51, 314 Mont. 338, 66 P.3d 274
- Busch v. Atkinson, 278 Mont. 478, 925 P.2d 874 (1996)
- Redies v. Cosner, 2002 MT 86, 309 Mont. 315, 48 P.3d 697
- Gaustad v. City of Columbus, 265 Mont. 379, 877 P.2d 470 (1994)
- Matter of the Estate of Magelssen, 182 Mont. 372, 597 P.2d 90 (1979)
- Kontrick v. Ryan, 540 U.S. 443 (2004)
- Eberhart v. United States, 546 U.S. 12 (2005) (per curiam)
- DeShields v. State, 2006 MT 58, 331 Mont. 329, 132 P.3d 540
- Stanley v. Lemire, 2006 MT 304, 334 Mont. 489, 148 P.3d 643
- In re Marriage of Miller, 259 Mont. 424, 856 P.2d 1378 (1993)
- Arbaugh v. Y & H Corp., 546 U.S. 500 (2006)
- Rockwell International Corp. v. United States, 127 S. Ct. 1397 (2007)
- State v. Madera, 206 Mont. 140, 670 P.2d 552 (1983)
- Matter of M.B., 282 Mont. 150, 935 P.2d 1129 (1997)
- Lemley v. Allen, 203 Mont. 37, 659 P.2d 262 (1983)
- State v. 1978 LTD II, 216 Mont. 401, 701 P.2d 1365 (1985)
- United States v. Sadler, 480 F.3d 932 (9th Cir. 2007)

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