

SUPREME COURT OF MONTANA

Demontiney v. Mont. Twelfth Jud. Dist. Court, 2002 MT 161

51 P.3d 476 (Mont. 2002) · No. No. 01-695 · Decided July 18, 2002

SUMMARY

The Montana Supreme Court granted Lionel James Demontiney's petition for a writ of supervisory control after the trial court instructed the jury to consider mitigated deliberate homicide only after acquitting him of deliberate homicide. The court held that the resulting guilty verdict for mitigated deliberate homicide was logically inconsistent and prejudicial, ordered the verdict vacated, and directed that Demontiney be discharged. The majority also held that the State could not retry him on deliberate homicide, mitigated deliberate homicide, or negligent homicide; separate opinions disagreed regarding prejudice and retrial on negligent homicide.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Per Curiam; Karla M. Gray; Jim Regnier; James C. Nelson; Terry N. Trieweiler; W. William Leaphart; Jim Rice; Patricia O. Cotter
JURISDICTION	Montana
DECIDED	July 18, 2002
DOCKET	No. 01-695
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petition for a writ of supervisory control challenging the denial of motions to amend the verdict or obtain a new trial after the petitioner was acquitted of deliberate homicide but convicted of mitigated deliberate homicide.
STANDARD OF REVIEW	Supervisory control is appropriate when a district court is acting under a mistake of law causing significant injustice and the remedy by appeal is inadequate; jury instructions are reviewed as a whole to determine whether they fully and fairly instruct the jury on the applicable law, and reversal requires prejudice to the defendant's substantial rights.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; binding precedent within Montana.

PARTIES

Lionel James Demontiney v. Montana Twelfth Judicial District Court,
The State of Montana

TOPICS

lesser included offense instructions jury instructions double jeopardy appellate procedure
criminal procedure

PRACTICE AREAS

criminal procedure appellate procedure constitutional law jury instructions remedies

QUESTIONS PRESENTED

1. Whether the district court erred by instructing the jury to consider mitigated deliberate homicide only after reaching a not-guilty or inconclusive verdict on deliberate homicide.
2. Whether the erroneous jury instructions and verdict form prejudiced Demontiney's substantial rights and required vacation of the mitigated-deliberate-homicide conviction.
3. Whether the State could retry Demontiney for deliberate homicide, mitigated deliberate homicide, or negligent homicide after the original verdict was vacated.

HOLDINGS

1. The district court's instructions directing the jury to consider deliberate homicide first and mitigated deliberate homicide only after acquitting or failing to reach a verdict on deliberate homicide were an incorrect statement of law. A finding that the defendant committed the elements of deliberate homicide is a prerequisite to conviction for mitigated deliberate homicide, so the jury could not logically acquit on deliberate homicide and then convict on the mitigated offense.
2. The erroneous instructions and verdict form prejudiced Demontiney's substantial rights because they produced a guilty verdict for mitigated deliberate homicide that was not logically possible. The error therefore required reversal or vacation of the conviction.
3. The State could not retry Demontiney for deliberate homicide, mitigated deliberate homicide, or negligent homicide. The jury's acquittal of deliberate homicide barred retrial on that charge; the logically impossible mitigated-homicide conviction could not support retrial on that charge; and Montana's former-prosecution statute barred retrial for negligent homicide because it was known to the prosecutor, supported by probable cause, and consummated before the original charge.

KEY QUOTATIONS

“Jury instructions in criminal cases must, as a whole, fully and fairly instruct the jury on the law applicable to the case.” (479)

“Therefore, a finding of guilt on deliberate homicide is a precondition to a finding of guilt on mitigated deliberate homicide.” (480)

“We cannot imagine a much more prejudicial result to a defendant than a guilty verdict that is not logically possible.” (480)

FACTUAL BACKGROUND

The State charged Demontiney with deliberate homicide and, during trial, proposed an instruction on mitigated deliberate homicide. Over Demontiney's objection, the district court instructed the jury to consider deliberate homicide first and to consider mitigated deliberate homicide only if it acquitted or could not reach a verdict on deliberate homicide. The jury acquitted Demontiney of deliberate homicide but convicted him of mitigated deliberate homicide, producing a verdict the majority deemed logically impossible because mitigated deliberate homicide requires proof of every element of deliberate homicide plus extreme mental or emotional stress.

PROCEDURAL HISTORY

Demontiney was charged with deliberate homicide and tried in the Montana Twelfth Judicial District Court. The district court instructed the jury to consider deliberate homicide first and mitigated deliberate homicide only after a not-guilty or inconclusive verdict on the greater charge. The jury acquitted Demontiney of deliberate homicide but convicted him of mitigated deliberate homicide. The district court denied his posttrial motions, and Demontiney petitioned the Montana Supreme Court for supervisory control.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The district court was ordered to vacate the jury's guilty verdict for mitigated deliberate homicide and immediately discharge Demontiney. The majority stated that Demontiney could not be retried on deliberate homicide, mitigated deliberate homicide, or negligent homicide.

CASES CITED

- Park v. Mont. Sixth Jud. Dist. Court, 1998 MT 164, 289 Mont. 367, 961 P.2d 1267
- State v. Fuqua, 2000 MT 273, 302 Mont. 99, 13 P.3d 34
- State v. Leyba, 276 Mont. 45, 915 P.2d 794 (1996)
- State v. Goulet, 283 Mont. 38, 938 P.2d 1330 (1997)
- State v. Scarborough, 2000 MT 301, 302 Mont. 350, 14 P.3d 1202
- State v. Whitehorn, 2002 MT 54, 309 Mont. 63, 43 P.3d 922
- State v. Nelson, 275 Mont. 86, 910 P.2d 247 (1996)
- State v. Barker, 260 Mont. 85, 858 P.2d 360 (1993)
- State v. Turner, 265 Mont. 337, 877 P.2d 978 (1994)
- Burks v. United States, 437 U.S. 1 (1978)
- United States v. Lanzotti, 90 F.3d 1217 (7th Cir. 1996)

- *Montana v. Hall*, 481 U.S. 400 (1987)
- *State v. Bad Horse*, 185 Mont. 507, 605 P.2d 1113 (1980)
- *United States v. Gooday*, 714 F.2d 80 (9th Cir. 1983)
- *United States v. Paul*, 37 F.3d 496 (9th Cir. 1994)
- *United States v. Brown*, 287 F.3d 965 (10th Cir. 2002)

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