

SUPREME COURT OF THE STATE OF MONTANA

State v. Spinks

2013 MT 150N (Supreme Court of the State of Montana 2013) · No. DA 12-0561 · Decided June 4, 2013

SUMMARY

The Montana Supreme Court affirmed the denial of Brian Joseph Spinks’s petition for post-conviction relief asserting double jeopardy violations. The court held that the petition was untimely, that the fundamental-miscarriage-of-justice exception did not apply, and that Spinks had failed to provide sufficient records to support his claim.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Patricia O. Cotter; Mike McGrath; Beth Baker; Brian Morris; Jim Rice
JURISDICTION	Montana
DECIDED	June 4, 2013
DOCKET	DA 12-0561
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of a petition for post-conviction relief alleging a constitutional double-jeopardy violation.
STANDARD OF REVIEW	The Court reviewed whether the District Court erred in denying post-conviction relief; the opinion states that the District Court's factual findings were supported by substantial evidence and that the legal issues were controlled by settled Montana law.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Brian Joseph Spinks v. State of Montana

TOPICS

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

PRACTICE AREAS

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

QUESTIONS PRESENTED

1. Whether the District Court erred in denying Spinks's petition and motions for post-conviction relief as untimely.
2. Whether Spinks established an exception to or tolling of the post-conviction-relief statute of limitations based on a claimed fundamental miscarriage of justice and alleged victim recantation.
3. Whether the District Court could evaluate Spinks's double-jeopardy claim when he failed to provide information or records concerning the earlier Justice Court conviction.

HOLDINGS

1. The petition was time-barred because it was filed nearly nine years after the one-year limitations period for seeking post-conviction relief expired.
2. Spinks did not establish the fundamental-miscarriage-of-justice exception because that exception applies only when newly discovered evidence shows that the petitioner did not commit the offense, and the alleged victim recantation evidence was known to Spinks when he pleaded guilty.
3. The District Court properly denied relief because Spinks failed to comply with the requirements of § 46-21-104, MCA, and did not provide information or records concerning the earlier Justice Court conviction.

FACTUAL BACKGROUND

The State originally charged Spinks with two felony counts of sexual intercourse without consent based on conduct occurring July 3, 2000. Spinks later pleaded guilty to amended misdemeanor charges of partner or family member assault and negligent endangerment, receiving consecutive one-year sentences with all but time served suspended. He had previously pleaded guilty to partner or family member assault in Gallatin County Justice Court on July 5, 2000, and later claimed that the District Court conviction punished the same conduct twice. He did not raise double jeopardy during the original proceedings or pursue a direct appeal.

PROCEDURAL HISTORY

Spinks pleaded guilty in the Montana Eighteenth Judicial District Court to amended misdemeanor charges and was sentenced on May 30, 2001. Nearly nine years after the applicable post-conviction-relief limitations period expired, he filed motions asserting that the conviction violated double-jeopardy protections. The District Court denied the motions as untimely and for failure to provide information or records concerning an earlier Justice Court conviction. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Davis v. State, 2004 MT 112, ¶ 15, 321 Mont. 118, 88 P.3d 1285
- State v. Evert, 2007 MT 30, ¶ 16, 336 Mont. 36, 152 P.3d 713

