

SUPREME COURT OF THE STATE OF MONTANA

State of Montana v. Eldon Huffine

State v. E. Huffine, 2010 MT 67N (Mont. 2010) · No. DA 09-0283 · Decided March 31, 2010

SUMMARY

The Montana Supreme Court affirmed Eldon Huffine’s convictions for eight violations of an order of protection. The court held that his challenge to exclusion from portions of his criminal trial was raised for the first time on appeal and that the appeal was without merit because he voluntarily absented himself and failed to timely object.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	James C. Nelson; Mike McGrath; W. William Leaphart; Brian Morris; Jim Rice
JURISDICTION	Montana
DECIDED	March 31, 2010
DOCKET	DA 09-0283
DISPOSITION	affirmed
PROCEDURAL POSTURE	Huffine appealed his convictions for eight counts of violating an order of protection, arguing that he was denied his constitutional right to personally appear and defend at trial.
STANDARD OF REVIEW	The court reviewed whether Huffine's constitutional right to personally appear and defend was violated, applying Montana's preservation and acquiescence principles and determining whether the appeal was manifestly without merit on the briefs and record.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Eldon Huffine v. State of Montana

TOPICS

- criminal procedure
- procedural due process
- appellate procedure
- preservation of error

PRACTICE AREAS

- criminal law
- criminal procedure
- appellate procedure
- constitutional law

QUESTIONS PRESENTED

1. Whether Huffine was denied his constitutional right to personally appear and defend in a criminal prosecution when he was absent from portions of trial without an on-the-record personal waiver of his right to be present.

HOLDINGS

1. The appeal was without merit because Huffine and his counsel did not timely object to his absence or to the lack of an on-the-record personal waiver, and Huffine acquiesced in or actively participated in the challenged proceedings.

KEY QUOTATIONS

“the following memorandum decision shall not be cited as precedent.” (¶ 1)

“Accordingly, we hold that it is manifest on the face of the briefs and the record before us that this appeal is without merit because the findings of fact are supported by substantial evidence, the legal issues are clearly controlled by settled Montana law which the District Court correctly interpreted, and the record supports the District Court’s conclusion.” (¶ 14)

FACTUAL BACKGROUND

The district court issued an order of protection barring Huffine from contacting Toba Lord or her children. After Lord reported that Huffine had mailed letters to her and her attorney, the State charged him with eight violations of the order. During trial, Huffine voluntarily left the courtroom after asserting that the court lacked jurisdiction and was biased, and he later was removed for repeatedly interrupting despite warnings; he watched the proceedings by closed-circuit television.

PROCEDURAL HISTORY

The District Court for the Eighteenth Judicial District, Gallatin County, charged Huffine by second amended information with eight counts of violating an order of protection. During trial, Huffine voluntarily left the courtroom on the first day and was later removed after repeatedly interrupting the proceedings; he then observed the trial by closed-circuit television. A jury convicted him on two misdemeanor and six felony counts, and the district court sentenced him as a persistent felony offender. The Montana Supreme Court affirmed, concluding that Huffine had not timely objected and had acquiesced in or actively participated in the challenged proceedings.

DISPOSITION

affirmed

CASES CITED

- State v. Hurlbert, 2009 MT 221, ¶ 28, 351 Mont. 316, 211 P.3d 869
- State v. Cybulski, 2009 MT 70, ¶ 61, 349 Mont. 429, 204 P.3d 7

