

SUPREME COURT OF THE STATE OF MONTANA

Melone v. State

2004 MT 93N (2004) · No. No. 03-550 · Decided April 13, 2004

SUMMARY

The Montana Supreme Court affirmed the denial of David A. Melone’s petition for postconviction relief. The court held that the oral sentence committing Melone to Montana State Prison controlled over inconsistent wording in the written judgment, that the petition was untimely, and that amending the written judgment to conform to the oral sentence was not a resentencing.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	W. William Leaphart; Karla M. Gray; Patricia O. Cotter; Jim Regnier; Jim Rice
JURISDICTION	Montana
DECIDED	April 13, 2004
DOCKET	No. 03-550
DISPOSITION	affirmed
PROCEDURAL POSTURE	Melone appealed the denial of his petition for postconviction relief challenging the legality of the written sentence and the timeliness of his petition.
STANDARD OF REVIEW	The Supreme Court reviews denial of postconviction relief for clear error in the district court's findings of fact and correctness of its conclusions of law.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	David A. Melone v. State of Montana

TOPICS

- state post-conviction relief
- post-conviction relief
- sentencing
- statutory interpretation
- appellate procedure

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- sentencing
- appellate procedure

QUESTIONS PRESENTED

1. Whether the District Court erred in denying Melone's petition for postconviction relief because the written judgment allegedly imposed an unlawful ten-year Department of Corrections commitment.
2. Whether the postconviction petition was barred by the one-year limitations period.
3. Whether amendment of the written judgment required Melone's presence at a resentencing hearing.
4. Whether trial counsel was ineffective for failing to identify the discrepancy between the oral sentence and written judgment.

HOLDINGS

1. The controlling sentence was the oral sentence pronounced in the defendant's presence, which sentenced Melone to ten years at Montana State Prison; therefore, the statutory limitation on a Department of Corrections commitment did not apply.
2. Melone's postconviction petition was time-barred because it was filed nearly two years after the July 6, 2000 judgment became final, beyond the one-year statutory limitations period.
3. Amending the written judgment to conform to the oral sentence was not a resentencing and did not require Melone's presence.
4. Melone's ineffective-assistance argument lacked merit because identifying the discrepancy earlier would, at most, have resulted in the written judgment being modified to conform to the oral sentence.

KEY QUOTATIONS

“the sentence orally pronounced from the bench in the presence of the defendant is the legally effective sentence and valid, final judgment.” (¶ 11)

FACTUAL BACKGROUND

Melone was charged with felony assault after Thomas Brosovic was stabbed and seriously lacerated in a taxi cab. Following an earlier appeal permitting withdrawal of an Alford plea, Melone pleaded guilty and received an oral ten-year sentence to Montana State Prison. The subsequent written judgment described a ten-year commitment to the Department of Corrections, and Melone later sought postconviction relief arguing that the written sentence exceeded the statutory five-year limit for such a commitment.

PROCEDURAL HISTORY

Melone entered an Alford plea to felony assault and was initially sentenced as a persistent felony offender. After a prior appeal, the Montana Supreme Court permitted him to withdraw that plea. He later pleaded guilty and received an oral ten-year sentence to Montana State Prison, although the written judgment referred to a ten-year commitment to the Department of Corrections. The District Court denied his 2002 postconviction petition as time-barred and ordered the written judgment amended to conform to the oral sentence; Melone appealed.

DISPOSITION

affirmed

CASES CITED

- State v. Melone, 2000 MT 118, 299 Mont. 442, 2 P.3d 233
- Porter v. State, 2002 MT 319, ¶ 13, 313 Mont. 149, ¶ 13, 60 P.3d 951, ¶ 13
- State v. Wright, 2001 MT 282, ¶ 9, 307 Mont. 349, ¶ 9, 42 P.3d 753, ¶ 9
- State v. Lane, 1998 MT 76, 288 Mont. 286, 957 P.2d 9

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/montana-supreme-court-of-the-state-of-montana/2004/melone-v-state-75w2d6jk>